

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 SUZANNE IVIE,)
4 Plaintiff,) 3 :19-cv-01657-JR
5 vs.) June 15, 2021
6 ASTRAZENECA PHARMACEUTICALS, LP,) Portland, Oregon
7 Defendant.)

8

9 (Jury Trial - Volume 2)

10

11 BEFORE THE HONORABLE JOLIE A. RUSSO

12 UNITED STATES DISTRICT COURT MAGISTRATE

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Opening Statement

1 (June 15, 2021)

2 P R O C E E D I N G S

3 (Open court; jury present:)

4 THE COURT: Good morning, jurors. I appreciate your
5 happy, healthy return this morning. We are going to begin, as
6 I reminded you last night, with defendant's opening statement.

7 Thank you.

8 MS. RIECHERT: Good morning, everybody.

9 As I mentioned, my name is Melinda Riechert, and I am
10 representing AstraZeneca along with Ryan McCarthy, Anne
11 Talcott, and my client, Beth Clement, is here from AstraZeneca.

12 I have some boards in front of you. I know they are
13 hard to read, but I find the hardest thing for jurors, when
14 they're coming into a case, is to figure out who all the people
15 are and what the chronology is. So I'm going to go through it
16 all with my opening statement, but any time you need to look at
17 a picture or look at the chronology, you're more than welcome
18 to do so.

19 So my client in this case is AstraZeneca.

20 AstraZeneca is a pharmaceutical and biotechnology company that
21 makes medicines in oncology, renal, cardiovascular,
22 respiratory, and metabolic.

23 None of the witnesses in this case are from the
24 Portland area. None of the events that took place in this case
25 are from the Portland area. But AstraZeneca has a presence in

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1 Portland, and that's what allows them to be sued.

2 The witnesses in this case are from the respiratory
3 part of the AstraZeneca business, and the main product that
4 they sell is SYMBICORT, which is a medication for asthma.

5 Ms. Ivie was an executive district sales manager.

6 She supervised a team of eight pharmaceutical sales
7 specialists, PSS, pharmaceutical sales specialists. The job of
8 the pharmaceutical sales specialists, also known as sales reps,
9 is to go to the doctors' offices and talk about the company's
10 medications that they are responsible for. And Ms. Ivie's job,
11 as the supervisor of the pharmaceutical sales representatives,
12 was to coach them and develop them as they did their job.

13 Ms. Ivie lives now and lived, when she worked at
14 AstraZeneca, in the Salt Lake City region of Utah. Her
15 territory covered Utah, the southern part of Idaho, and a small
16 part of Oregon. As I said, her job was to help the
17 pharmaceutical sales representatives who reported to her by
18 coaching them on how best to help present to the healthcare
19 professionals about the pharmaceuticals they were responsible
20 for.

21 Stephani DiNunzio became Ms. Ivie's manager in
22 September of 2017. She lives now and lived at the time that
23 she was supervising Ms. DiNunzio (sic.) in Idaho.

24 Ms. Ivie says that when she started reporting to
25 Ms. DiNunzio, she was kind of like her "golden child; she was

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1 absolutely thrilled with everything I did." And that was true,
2 because in the first six months that Ms. Ivie reported to
3 Ms. DiNunzio, she did very well. But all of that changed
4 starting in 2018 when the team's performance began to slip
5 badly.

6 Now, Ms. DiNunzio is a strong manager. She focuses
7 on performance and behaviors, and she and Ms. Ivie talked
8 frequently about the poor performance of the team.

9 You are going to be asked to decide three different
10 issues in this case:

11 First, did Ms. Ivie prove that AstraZeneca terminated
12 her employment because of her age?

13 Secondly, did Ms. Ivie prove that AstraZeneca
14 terminated her employment because she took a leave of absence?

15 Third, did Ms. Ivie prove that AstraZeneca terminated
16 her employment because she had made complaints that
17 Ms. DiNunzio was encouraging off-label promotion or age
18 discrimination?

19 So why was Ms. Ivie actually terminated? She was
20 terminated because she refused to follow the company's coaching
21 requirements and the instructions of her manager, even though
22 she had been told repeatedly that she needed to do so. This
23 case boils down to an employer who made a very reasonable
24 decision to terminate an employee who did not perform the
25 required job duties even after being repeatedly told by her

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1 manager and by the human resources department, both orally and
2 in writing, that she needed to do so.

3 So you're going to hear a lot in this case about the
4 80/20 rule. I'm showing you now a document that was given to
5 Ms. Ivie and the other district managers like her, district
6 sales managers. And as you can see, it explains the coaching
7 requirements. Because they are in the respiratory part of the
8 business, the coaching goal for their therapeutic area was 150
9 days a year. That means that Ms. Ivie had to spend 150 days a
10 year coaching the eight pharmaceutical sales representatives
11 who reported to her.

12 Now, there are two types of coaching at AstraZeneca.
13 There is coaching with customer engagement, and there is
14 coaching without customer engagement. This document that was
15 sent out in April 2018 describes the difference. Coaching with
16 customer engagement means that the district sales manager, like
17 Ms. Ivie, is in the field with the pharmaceutical sales
18 representatives. Coaching without customer engagement means
19 that the district sales manager is not in the field with the
20 pharmaceutical sales representative coaching them.

21 Then at the end of this document, you'll see that it
22 says, "What percentage of our total coaching days should be
23 under the new category coaching without customer engagement?

24 "ANSWER: Coaching without customer engagement and
25 business development both count towards the coaching hours" --

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1 that's the 150 hours -- "but combined, they should not equal
2 more than 20 percent of the coaching days."

3 So 80 percent of the coaching days have to be with
4 customer engagement; 20 percent of the coaching days without
5 customer engagement. There is nothing about this that was
6 unclear as to what AstraZeneca expected.

7 Now, as Mr. Oswald pointed out in his opening
8 statement, Ms. DiNunzio made an exception to this for the
9 pharmaceutical sales representatives that Ms. Ivie was coaching
10 for a very short period of time in Spokane, Washington. And
11 she told her, "Hey, for those Spokane pharmaceutical sales
12 representatives, you don't have to spend 80 percent of your
13 time in the field, but the pharmaceutical sales representatives
14 that you're coaching in Idaho and in Utah, you've still got to
15 spend 80 percent of your time coaching them in the field with
16 customer engagement."

17 The evidence will show that Ms. Ivie let her team
18 down. Even after she was repeatedly told to spend 80 percent
19 of her time coaching the team in the field, she did not do so.
20 Even after she received a written warning telling her that she
21 had to spend 80 percent of her time in the field coaching her
22 team, she still didn't do so.

23 The evidence will show that Ms. Ivie let her team
24 down. She didn't spend 80 percent of her time coaching with
25 customer engagement. She didn't spend 80 percent of her time

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1 in the field helping her team. Instead, she spent her time
2 coaching out of her home in Salt Lake City.

3 Now, managing without coaching the team had worked
4 very well for Ms. Ivie for a long time, because the product
5 that she was primarily responsible for was SYMBICORT. In the
6 Salt Lake City region, the company had almost no competitors.
7 It was a major healthcare provider in Salt Lake City that told
8 its physicians that it could pretty much only write
9 prescriptions for SYMBICORT for the patients with asthma.

10 But all of that changed in 2018. In 2018, that
11 health care provider allowed its physicians to write
12 prescriptions for other pharmaceuticals besides SYMBICORT for
13 patients with asthma. Generics came on the market. So with
14 all of these competitors, Ms. Ivie and her team were no longer
15 meeting their sales goals like they had before.

16 Ms. DiNunzio repeatedly told Ms. Ivie, "You have to
17 find a way to get these physicians to continue to write
18 prescriptions for SYMBICORT. You have to help coach the
19 pharmaceutical sales representatives who are out in the field
20 meeting these physicians why SYMBICORT is still the best
21 product for their patients." The team needed Ms. Ivie's help.

22 Now, Ms. DiNunzio will come to Court and tell you
23 about the number of times she told Ms. Ivie about the 80/20
24 rule. She will explain why in-person observations are so
25 important to help the pharmaceutical sales representative

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1 improve their performance as they make presentations to the
2 physicians. Because unless you actually go out on the calls
3 with the representatives, you cannot observing them. And if
4 you are not observing them, you can't coach them on how to
5 improve.

6 When the company finally fired her for not following
7 the rules, after being repeatedly warned that she needed to do
8 so, she sued. She claimed she was fired because of her age,
9 because she took a leave of absence, and because she made
10 complaints. The evidence in this case will show that neither
11 her age, her leave of absence, or her complaints had anything
12 to do with why she was fired. Instead, the evidence will show
13 that she was fired for not following the same rules that
14 everybody else was required to follow.

15 Now, Ms. Ivie admits that she didn't follow the 80/20
16 rule. You will hear a lot in this case about field coaching
17 reports. A field coaching report is a report that the district
18 sales manager is supposed to fill out when they go into the
19 field and observe their pharmaceutical sales specialists
20 interacting with the doctors. Ms. Ivie admits that she didn't
21 comply with the 80/20 rule and that her field coaching reports
22 were false.

23 (The following audio excerpt was played in open
24 court:)

25 "There were times when you documented conversations

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1 in a field coaching report even though you were not riding in
2 the field with the rep, correct?

3 "ANSWER: Yes."

4 Ms. Ivie now says that she thought the 80/20 rule was
5 a recommendation and not a requirement, but the documents that
6 you will see as exhibits in this case make it clear that it was
7 never a recommendation. It was always a requirement. The
8 other district sales managers who worked for Ms. DiNunzio will
9 come into court and testify that they knew it was a requirement
10 and not a recommendation, and they followed it.

11 If she thought it was a recommendation, she would
12 have put down accurately in her time records the time she was
13 in the field and the time she wasn't in the field, but she
14 didn't.

15 (The following audio excerpt was played in open
16 court:)

17 "QUESTION: There were times when you documented" --
18 Sorry.

19 So Ms. Ivie's performance continued to decline in
20 2018, and as the district sales manager, she was ultimately
21 responsible for the performance of her team and for the
22 development of her sales representatives. Ms. DiNunzio is
23 trying to figure out why Ms. Ivie's team and her team's
24 performance is so low. So in May of 2018, Ms. DiNunzio looks
25 at these field coaching reports for all of the DSMs who report

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1 to her, including Ms. Ivie, and she learns that Ms. Ivie is not
2 following the 80/20 rule and coaching in person, as required.

3 For example, Ms. Ivie was supervising two
4 pharmaceutical sales representatives in Boise, Idaho, and they
5 were not doing well. And she needed to be out in the field
6 helping them, but these field coaching reports showed that she
7 was not.

8 Ms. DiNunzio will explain that she raised this issue
9 with Ms. Ivie in June of 2018, well before Ms. Ivie made any
10 complaints.

11 Now, let's talk about the multiple times that
12 Ms. DiNunzio told Ms. Ivie that she had to comply with the
13 80/20 rule. The rule was adopted in 2017, and DSMs, like
14 Ms. Ivie, were told about it at the time. But in 2018 -- by
15 the way, the rule was adopted because AstraZeneca decided that
16 the best way for a district sales manager to improve the
17 performance of their team was to observe them as they actually
18 gave their presentations, and then they could help them
19 improve. And that's why AstraZeneca decided that the district
20 sales managers needed to spend most of their time in the field
21 observing the PSSs who reported to them.

22 The district sales managers were told about this rule
23 repeatedly, again, in 2018. It was discussed in district sales
24 manager meetings. It was discussed in emails. Ms. Ivie admits
25 that she got these documents. She admits that she attended

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1 these meetings.

2 So let's talk about the five times in 2018 that
3 Ms. Ivie was informed about the 80/20 rule.

4 April 4th, 2018, Ms. DiNunzio sends an email to
5 Ms. Ivie and all of the people, who are the district sales
6 managers, about an upcoming meeting. It says, "For this
7 upcoming meeting, district sales managers coaching days are
8 going to be discussed at the meeting." Then it repeats what
9 percentage of the coaching days should be under the new
10 category, coaching with customer engagement; answer,
11 20 percent. So the other 80 percent had to be with customer
12 engagement.

13 Let's go to May 29th, 2018. Another email that
14 Ms. DiNunzio sends to the whole team, including Ms. Ivie.
15 You'll see it describes, again, coaching with customer
16 engagement and without. It says, "Please review the
17 attachments and ensure that your time reflects the 80/20 split
18 going forward," and then she attaches the field coaching
19 reports for April.

20 Let's go to June 2018. There is a meeting between
21 Ms. DiNunzio and Ms. Ivie, and Ms. DiNunzio takes notes of
22 these one-on-one meetings that she has with her direct reports,
23 including Ms. Ivie. These are the notes of that meeting. And
24 as you can see, she says, "We discussed what I found when I
25 looked at these field coaching reports when I did my FCR

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1 review, and I talked to her" -- I talked to Ms. Ivie -- "about
2 observations of selling interactions. I asked" -- this is at
3 the very bottom there. I had to blow it up because the print
4 is so small, but you'll see it in the actual document. "I
5 asked if she uses FCRs to capture distance coaching
6 discussions. She said yes." So she is admitting that she is
7 using these field coaching reports when she is not in the field
8 with the PSSs.

9 Ms. DiNunzio goes on, "I asked her to refrain from
10 doing so. The FCRs shouldn't be used to summarize a brief
11 conversation. I said that Spokane was the exception." So
12 other than Spokane, 80 percent of your time in the field and
13 don't put compensations in the field coaching reports

14 Let's go to September 2018. Ms. DiNunzio again has a
15 district sales managers meeting with all of the people in her
16 district. She again goes over the coaching requirements that
17 the district sales managers have to follow, including 150 days
18 of coaching, 80 percent in the customer engagement.

19 Finally in 2018 -- we have December 2018. And here
20 again, another email from Ms. DiNunzio to Ms. Ivie. What
21 Ms. DiNunzio has done is she has gone back and looked at these
22 field coaching reports to understand how much time Ms. Ivie is
23 actually spending in the field coaching.

24 You can see that for the first quarter of 2018,
25 53 percent of her time -- not 80 -- 53 percent; second quarter,

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1 48 percent; third quarter, 48 percent. So these documents
2 clearly show that Ms. Ivie was not meeting the 80/20
3 requirement.

4 In 2018, Ms. Ivie's performance continued to
5 deteriorate. Through the third quarter of 2018, she was in the
6 bottom 17 percent in the entire country. By the end of 2018,
7 she was in the bottom 13 percent in the entire country.

8 On December 19th -- a very important date -- on
9 December 19th, 2018, there is a meeting between Ms. DiNunzio
10 and Ms. Ivie to go over Ms. Ivie's performance for 2018, and
11 you can see here in the performance review that Ms. Ivie got a
12 rating of two. AstraZeneca has a five-point rating, with one
13 as the lowest and five as the highest. She had got a two
14 rating. It notes that she was 106th out of 128 districts in
15 the country, and she was in the bottom 17 percent. And the
16 review specifically notes, "You did not meet performance
17 expectations in 2018."

18 Ms. DiNunzio also notes in this review, which you
19 will have and see in evidence as an exhibit in this case. It
20 is Exhibit 510. Ms. DiNunzio notes for the first quarter
21 Ms. Ivie was meeting her goals, but she ended the year last in
22 her region for SYMBICORT and second-to-last for the two other
23 pharmaceuticals that she was responsible for.

24 Now, Ms. Ivie didn't challenge these numbers, because
25 she couldn't. Ms. DiNunzio notes in the review that there are

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1 reasons for the poor performance that aren't Ms. Ivie's fault.
2 I told you about the healthcare provider allowing other
3 pharmaceuticals to be sold by the doctors -- to be used by the
4 doctors and also the fact that competitors were coming into the
5 market.

6 But it was Ms. Ivie's job to figure out what the
7 problem was and to come up with a solution. And the way to do
8 that was to do more coaching in the field with her
9 pharmaceutical sales representatives so she could help them
10 overcome these issues.

11 Now, the review goes on to note that Ms. Ivie had
12 done a lot of good things besides her regular job to help the
13 region during 2018. She was on the leadership academy. She
14 was the compliance ambassador. And she did other things to
15 help the region.

16 While Ms. DiNunzio was complimentary of her for doing
17 that, she made it clear that her highest priority had to be to
18 manage her team and to bring up their performance.

19 Ms. DiNunzio ends the review by saying, "Ms. Ivie
20 performed well in the past," and she was confident that she
21 could do so again.

22 So what was Ms. Ivie's response to this review?
23 Later that same day, December 19th, 2018, she filed a complaint
24 with AstraZeneca's ethics department, what we call a hotline
25 complaint, and she alleged two things: Age discrimination and

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1 compliance violations.

2 Now, let's turn to January 2019. Ms. DiNunzio is
3 still very concerned about the performance of Ms. Ivie in her
4 district, but the important thing to note here is that the
5 company did not tell Ms. DiNunzio about this complaint that
6 Ms. Ivie had made until February 21st, 2019, and then they just
7 told her it was a complaint. They didn't tell her any of the
8 details.

9 It wasn't until March 1st, 2019, that Ms. DiNunzio
10 learns the details of the complaint, because that's when she is
11 interviewed in connection with the complaints. But all through
12 January, all through February, through the 21st, she knows
13 nothing about these compliance complaints. But she is still
14 going ahead, trying to figure out what is wrong with Ms. Ivie's
15 district. And so again, just like she had done the previous
16 year, she looks at the field coaching reports for all the
17 people who report to her, but this time from June 2018 to
18 December 2018.

19 And what does she learn? Still, Ms. Ivie is not
20 spending 80 percent of her time in the field. Now, Ms. Ivie --
21 as I mentioned, the pharmaceutical sales representatives in
22 Boise were not doing well, and Ms. Ivie gave them a two on
23 their performance reviews. But still, she wasn't spending time
24 in the field with them helping them to improve performance.

25 So Ms. DiNunzio will come to court and tell you that

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1 she concluded, in January of 2019, knowing nothing about this
2 complaint against her, that Ms. Ivie had not submitted field
3 coaching reports for all the days she should have, but some of
4 the field coaching reports, she said she was in the field when
5 she wasn't. For example, she was reporting field coaching
6 reports for Boise, Idaho, when she is in Salt Lake City, but
7 there is no airfare. She said she was doing field coaching for
8 two days in Boise, Idaho. No airfare; no hotel receipts for
9 those two days.

10 So the evidence will show that, notwithstanding all
11 of the efforts that Ms. DiNunzio made in 2018, to make it clear
12 to Ms. Ivie that she had to comply with the 80/20 rule, she
13 still wasn't doing so.

14 Let's go to February of 2019. As a result of this
15 lack of in-person coaching, Ms. DiNunzio concludes that
16 Ms. Ivie's team deserves a leader who will actively coach them
17 and help them grow and succeed and that Ms. Ivie is not doing
18 so.

19 So she reaches out to Karen Belknap, who is in the
20 employee relations department. They decide to meet with
21 Ms. Ivie and find out why she isn't meeting the company's
22 expectations. They meet on February 18th, 2019. At that time
23 Ms. DiNunzio still has no knowledge that Ms. Ivie has filed a
24 complaint against her. On February 18th, at that meeting, they
25 ask Ms. Ivie about her lack of coaching -- of her in-person

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1 coaching of her team. Despite all of the documents that I've
2 showed you earlier in this presentation, Ms. Ivie says, "I
3 didn't know I was supposed to comply with the 80/20 rule. It
4 wasn't until a few weeks ago that I realized I was supposed to
5 be doing that."

6 After this meeting, Ms. DiNunzio sends Ms. Belknap an
7 email, and she says, "She certainly knew about it. Here are
8 all the times I told her in 2018." And you will see that
9 document in evidence.

10 As a result of all of this, the human resources
11 department decides to issue a written warning to Ms. Ivie for
12 her failure to meet the coaching requirements. When Ms. Ivie
13 is told that she is going to be getting a written warning, she
14 tells the company that she is going to leave the company. And
15 she asked the company, "Hey, can you get me a severance
16 package?" And the company says, "Yes, we will give you a
17 severance package." And they offer her one, but she changes
18 her mind. She decides she doesn't want the severance.

19 So in March of 2019, the written warning is issued.
20 You will see a copy of this in evidence. I'm not going to go
21 through all of it. But it refers to that
22 February 18th meeting, when Ms. DiNunzio knew nothing about
23 this complaint, where they talked about the variance between
24 the number of coaching days that Ms. Ivie was supposed to be
25 doing and the number she was actually doing.

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1 It notes that she submitted field coaching reports
2 for days she was not in the field. It notes that only
3 45 percent of the coaching days for the people in Boise, Idaho,
4 were in person. That was particularly problematic because
5 their performance was declining, and they needed her help.

6 The day after she received this written warning,
7 Ms. Ivie went out on a leave of absence. Now, Ms. Ivie will
8 tell you, and the witnesses in this case will all explain, that
9 there are two different tracks for issues with employees at
10 AstraZeneca. There is the discipline track, and there is the
11 performance track. For those people on the performance track,
12 they are doing their job; they're just not doing it well
13 enough. And if you are on the performance track, then you get
14 a performance improvement plan that lays out what you need to
15 do to improve.

16 If you're on the discipline track, that means you're
17 not doing the job. You're not doing the job that you are
18 required to do. And if you are on the discipline track, you
19 get a warning. You don't get both. You don't get a warning
20 and a performance improvement plan. It is one or the other.
21 And the human resources department will tell you that they put
22 Ms. Ivie on the discipline track, because she wasn't doing the
23 job that she was required to do.

24 Another employee was put on the performance track.
25 He received a performance improvement plan. He was doing the

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1 job. He was going out coaching his people. He just wasn't
2 doing a very good job coaching, and so he got a performance
3 improvement plan. He met the requirements of the plan. He's
4 still with AstraZeneca today.

5 Now, let's go to April of 2019. Ms. Ivie returned
6 from her leave of absence on April 16th. Now, you would expect
7 after receiving a written warning telling you you had to spend
8 80 percent of your time in the field coaching your reps, that
9 Ms. Ivie would do so. The evidence will show that she did not.
10 From April 16th to June 5th, she only submitted one field
11 coaching report.

12 Now, she had trouble getting onto the system after
13 she got back from her leave, and so Ms. DiNunzio said to her,
14 "Hey, if you can't get into the field coaching reports system,
15 just send me a system telling me about the field coaching that
16 you did." One email in seven weeks. Ms. Ivie was still not
17 spending her time in the field coaching her people, as
18 required. In addition, she was showing up unprepared for
19 meetings.

20 In May 2019, the evidence will show that she
21 continued not to meet the coaching requirements of spending
22 80 percent of her time in the field. HR tried to improve the
23 relationship between Ms. DiNunzio and Ms. Ivie. They even
24 tried to set up a mediation between the two of them to work it
25 out, but Ms. Ivie refused to attend the mediation.

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1 Ms. Ivie continued to make complaints about
2 Ms. DiNunzio in April and May of 2019. She repeated the old
3 complaint she already made. She added new complaints. But the
4 evidence will show that the relationship between Ms. Ivie and
5 Ms. DiNunzio was broken, and Ms. Ivie wasn't willing to do what
6 it would take to fix it. So on June 6th, 2019, AstraZeneca
7 decided to terminate Ms. Ivie's employment for her continued
8 failure to meet the requirements of the position, including
9 compliance with the 80/20 rule.

10 Now, because Ms. Ivie had made complaints against
11 Ms. DiNunzio, Ms. DiNunzio was not the decision-maker on the
12 termination. The company repeated its offer to pay severance
13 to Ms. Ivie, but she turned them down and decided to sue
14 instead.

15 Since Ms. Ivie's departure, the team is doing very
16 well. It is being coached by its district sales managers. It
17 is receiving all of the in-person coaching, and it is now one
18 of the best teams in the country.

19 So let's go through the claims that you have to
20 decide in this case. I mentioned the first claim is age
21 discrimination. Ms. Ivie points to three pieces of evidence
22 that she believes shows that she was discriminated against by
23 Ms. DiNunzio because of her age. The first is the Benatar
24 nickname.

25 So Ms. DiNunzio will testify that she asked her team

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1 for a fun work event to provide pictures of themselves when
2 they were teenagers. The middle picture that you see in front
3 of you is the picture that Ms. Ivie provided to Ms. DiNunzio.

4 Now, there are some text messages between
5 Ms. DiNunzio -- by the way, her name was Stephani Orgren then.
6 So you will see the texts are between Ms. Orgren and Ms. Ivie.

7 "Hi. Having a great day with Aaron. We have a very
8 important question for you. Which is your favorite? Benatar?
9 Nicks? Joplin? Jett?"

10 Ms. Ivie responds: "Wow. How do you choose?

11 *Benatar, Hit Me With Your Best Shot.*" That's one of
12 Pat Benatar's famous songs. "First to improve women to walk
13 away from abuse. Stevie Nicks went to my high school, so I
14 can't dis' her. Joplin died at 27, tragic. Joan Jett, *Love*
15 *Hurts*. Classic. I would have to say Benatar, Nicks, Joplin,
16 and Jett in that order."

17 Now, you'll note that these texts are in January of
18 2018. It wasn't until 17 months later, in May of 2019, that
19 Ms. Ivie complained for the first time about these texts.

20 Here are some more texts about the Benatar nickname.
21 First of all, Ms. DiNunzio -- called Stephani Orgren -- writes
22 to Ms. Ivie, "How do you feel about 'Benatar' as your
23 nickname?"

24 Ms. Ivie responds, "LOL," laughing out loud. "*Hit me*
25 *With Your Best Shot*. Bring it on."

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1 Stephani Orgren then responds: "She rocks, and so
2 does Suzanne. I have one for Genie too." Genie Hamilton is
3 another district sales manager. Remember, this is in
4 January of 2018 before the performance issues arise. "But I
5 need to run it by her. I'm not sure I'll get her sign-off."

6 Then Ms. Ivie responds: "This is kewl; so funny.
7 Love my new nickname. Can I get it on the company's license
8 plate?"

9 Then Ms. DiNunzio clicks "liked," and that is why the
10 word "liked" is at the beginning of that, because Ms. DiNunzio
11 liked what Ms. Ivie said.

12 So what's the second piece of evidence that Ms. Ivie
13 uses to show that she was discriminated against because of her
14 age? It relates to a comment "old pharma" or "old bus." So
15 Ms. DiNunzio used the phrase "old bus" or "old pharma," and
16 Ms. Ivie thinks when she did that she was referring to old
17 people. All the witnesses in this case will tell you that this
18 had nothing to do with old people. This was about a new
19 mindset, a new way of thinking. So the pharmaceutical industry
20 was changing, and the people who worked for it had to change
21 too.

22 So this is a slide that you see in front of you that
23 Ms. Ivie received along with the other district sales managers
24 from Ms. DiNunzio at a team meeting. You can see "old pharma"
25 focuses on things that are out of your control. "New pharma"

Opening Statement

1 focuses on things that are within your control. "Old pharma is
2 resource driven. 'I can't win without.' New pharma
3 understands allocation decisions and adjusts." So as you can
4 see, this doesn't have anything to do with age. This has to do
5 with mindset.

6 So what's the third piece of evidence that Ms. Ivie
7 asks you to look at to decide if she was discriminated against
8 because of her age? She says that Ms. DiNunzio said to her,
9 "You are aging really well. I thought you would have more
10 wrinkles." Ms. DiNunzio denied making this statement. She had
11 training from AstraZeneca. She knew you don't make these types
12 of statements, and she will testify that she didn't.

13 All right. So as you are looking at this age
14 discrimination claim, let's look at the ages of the people.
15 Ms. Ivie was 51; Ms. DiNunzio was 47. Only a four-year
16 difference in their age.

17 Ms. DiNunzio hired two DSMs, district sales managers.
18 One was over 50. The DSMs who reported to Ms. DiNunzio were
19 51, Ms. Ivie; 50, 50, 49, 45, 40, and 39. And the youngest of
20 them, the 39-year-old, was the person who got put on the
21 performance improvement plan. The person who replaced Ms. Ivie
22 was 45 years old, so not much younger than her.

23 So now let's look at the second claim that you have
24 to decide, which is whether Ms. DiNunzio fired Ms. Ivie because
25 she took a leave of absence. Again, the timeline is so

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1 important here. Ms. Ivie had already received the bad review
2 before she went on the leave of absence. She had already got
3 the written warning before she went on the written leave of
4 absence. In fact, she went on the leave of absence the day
5 after she got the written warning. When she came back from the
6 leave of absence, she was given seven weeks to show that she
7 would go out in the field and coach her representatives.

8 She was given seven weeks to show she complied with
9 the 80/20 rule. She didn't. Notwithstanding all the times she
10 had been told in 2018 that she had to comply with the 80/20
11 rule, notwithstanding all the times she was told in 2019 that
12 she had to comply with the 80/20 rule, notwithstanding the
13 written warning that she received in March of 2019 telling her
14 she had to comply with the rule, she still didn't do so.

15 By this time, the relationship between Ms. DiNunzio
16 and Ms. Ivie was broken. The team was suffering. It was time
17 for Ms. Ivie to find another job.

18 Let's look at the third claim that you are asked to
19 decide in this case: Did Ms. DiNunzio retaliate against and
20 then fire Ms. Ivie because Ms. Ivie alleged that Ms. DiNunzio
21 had engaged in encouraging off-label selling or age
22 discrimination?

23 Now, this is not a case, as Mr. Oswald suggested in
24 his opening statement, about whether the company violated its
25 code of ethics or its code of conduct. The issue in this case

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1 is did AstraZeneca fire Ms. Ivie because she complained about
2 compliance violations and age discrimination. In order to win
3 her case -- this part of her case -- she has to prove that
4 that's why she was fired.

5 Now, Ms. Ivie complains that one of the ways that
6 Ms. DiNunzio retaliated against her is by taking her off this
7 leadership job and the compliance ambassador. But she did that
8 because as she noted, it was detracting from the time from the
9 time that Ms. Ivie should have been spending coaching her team.
10 Ms. Ivie admits she spent a lot of time on these other
11 activities, and Ms. DiNunzio said, "It's time for you to focus
12 on coaching your team and give up these other activities."

13 Mr. Oswald showed you a number of emails in his
14 opening statement. These are emails that Ms. Ivie wrote, and
15 the judge told you in the instructions at the beginning of the
16 case that just because somebody writes something in an email,
17 it doesn't make it true. The email may still come into
18 evidence for other reasons, but just because somebody says it
19 in an email doesn't make it true.

20 Again, the timeline is super important in this case
21 so that you can see that on the same day that she has the
22 review meeting with her manager and gets told she is getting
23 this bad performance review, that same day is the day she goes
24 out and files the complaint. There is no dispute that the
25 complaint came after the review meeting. She had never

Opening Statement

1 previously complained of age discrimination or compliance
2 violations or illegal conduct. It wasn't until December 19th.

3 Now, Mr. Oswald, in his opening statement, questioned
4 why human resources was involved in the investigation of the
5 December 19th complaint. And it was involved. The reason that
6 human resources was involved is that there were two aspects --
7 two parts of the complaint that Ms. Ivie filed in December of
8 2019. She alleged age discrimination, and she alleged
9 compliance violations. And the company has two different
10 groups of people that investigate those. The HR department,
11 the employee relations department, they investigate age
12 discrimination or other types of discrimination complaints, and
13 the compliance department investigates the compliance
14 complaints.

15 So we have two tracks going on, with Ms. Belknap
16 doing the discrimination part; Mr. Pomponi doing the interviews
17 and compliance part. They do the interviews together to save
18 everybody's time, but they are doing two different
19 investigations. They write two different reports. Ms. Belknap
20 writes her report. You will see it in evidence. She concludes
21 no age discrimination by Ms. Ivie (sic.), and she will come
22 into court and tell you why she concluded that.

23 Mr. Pomponi is doing his compliance investigation,
24 and the compliance department issues its own report. And it
25 too finds that the compliance allegations are unsubstantiated.

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1 Now, there are some recommendations in the compliance
2 report, and that's a good thing. The evidence will be that
3 when compliance does these investigations, they often come up
4 with recommendations at the end to help the company improve,
5 because the company always wants to improve its practices. But
6 the result of the investigation was that there were no
7 compliance violations. The evidence was unsubstantiated.

8 Now, when she returned from her leave of absence,
9 Ms. Ivie continued to complain about Ms. DiNunzio. You will
10 see on the timeline there, in April of 2019, she makes more
11 complaints. She repeats the old complaints. She adds new
12 complaints, some of which were about things that happened a
13 year or more earlier. Karen Belknap investigates those
14 complaints and concludes there is no merit to them.

15 Ms. Belknap then retires from AstraZeneca, and
16 Dawn Ceaser comes in. Dawn Ceaser replaces Karen Belknap. In
17 May of 2019, Ms. DiNunzio -- excuse me -- Ms. Ivie makes more
18 complaints about Ms. DiNunzio, and now it is Dawn Ceaser's job
19 to investigate those complaints. Some of those complaints,
20 again, were about things that had happened a long time earlier.
21 Dawn Ceaser concludes in her investigation that the complaints
22 were unsubstantiated, and there wasn't support for them.

23 Now, there is another area of this lawsuit that you
24 are going to learn about, and that's called "insights."
25 Ms. Ivie claims that Ms. DiNunzio was encouraging the team to

Opening Statement

1 provide improper insights to doctors at the start of the call.

2 So let me tell you what an insight is. An insight is
3 a statement at the beginning of the visit between the
4 pharmaceutical sales representative and the doctor, and it's
5 designed to engage the doctor. It doesn't talk about the
6 product. It doesn't talk about the disease, and some of these
7 insights are local. For example, "Doctor, have you noticed the
8 wildfires are having an effect on your patients? Doctor, the
9 kids are now back in school. Have you noticed that is having
10 an effect on your patients?"

11 These are not statements about the product, not
12 statements about the disease. It is just trying to get the
13 doctor engaged.

14 There are two types of insights at AstraZeneca.
15 There are brand insights. That means the company came up with
16 these insights. Then there are local insights, and the local
17 insights are the ones that the pharmaceutical sales
18 representatives themselves come up with. All of these insights
19 have to be consistent with the brand product label, aligned to
20 brand strategy, and be true and not misleading.

21 Now, because the sales reps get to come up with their
22 own insights, there is a possibility that they might speak.
23 But the insights have nothing to do with being off-label,
24 because they are not talking about the product and what it can
25 be used for.

Opening Statement

1 Ms. DiNunzio's team, including Ms. Ivie, received
2 extensive training in March of 2018 about these insights. This
3 slide is taken from that training; what they can say and what
4 they cannot say.

5 Now, in August and September of 2018, Ms. DiNunzio
6 came up with an idea: Why don't these local salespeople
7 exchange insights with each other? So if somebody in Idaho
8 comes up with a great insight, why don't you send it to
9 somebody in Oregon or Washington and see if they think they can
10 use it in their area as well?

11 But she wasn't sure if the pharmaceutical sales
12 representatives were allowed to share their insights with each
13 other. So she goes to Ms. Ivie, who was the compliance person
14 for the region. She says, "Hey, Ms. Ivie, is it okay for the
15 sales reps to email the insights between each other?" Ms. Ivie
16 doesn't know the answer, and so she goes to the compliance
17 department, which is what she is supposed to do. She talks to
18 Teresa Grey, and she sends an email to Teresa Grey, which you
19 will see. She says, "Hey, are these people are allowed to
20 email these local insights between each other?" And
21 Teresa Grey writes back and says, "Hey, the compliance
22 department doesn't regulate the insights. But if you need more
23 training on insights, you can go to the training department,"
24 called CL&D.

25 Ms. DiNunzio says -- and this is what Mr. Oswald

Opening Statement

1 quoted -- "Let's pause on this -- "Let's pause on this" means,
2 "We don't need more training. We were just trained in March, a
3 few months ago, about what insights can and cannot say. We
4 don't need more training. I just wanted to know if we can
5 email them back and forth. I'm just going to leave it."

6 So I mentioned that there are two tracks to the
7 investigation, the human resources track that Ms. Belknap was
8 doing. After she interviewed these 14 witnesses with
9 Mr. Pomponi, she concluded that there was no merit to the age
10 discrimination claim. Mr. Pomponi is doing the compliance part
11 of the investigation. He investigates both the December 2019,
12 the December 19th, 2019, complaint. Then in January -- excuse
13 me -- the December of 2018 complaint. Then in January 2019,
14 Ms. Ivie makes more compliance complaints. In February 2019,
15 Ms. Ivie makes more compliance complaints.

16 Mr. Pomponi investigates the December complaints, the
17 January complaints, the February complaints. He interviews 14
18 witnesses and reaches a conclusion that Ms. Ivie was wrong;
19 that Ms. DiNunzio had done nothing to encourage off-label
20 selling; that all of the witnesses that they interviewed
21 confirmed this; and therefore, the allegations were
22 unsubstantiated.

23 So let's look at some of the witnesses you are going
24 to be seeing during the week. Four of the witnesses,
25 Mr. Griffith, Mr. Stickle, Mr. Barnes, and Mr. Thomsen, were

Opening Statement

1 sales representatives who reported to Ms. Ivie, and they will
2 be witnesses in this case. They will explain how little she
3 met with them, how little she coached them, and how little she
4 did to improve their skills. They will contrast working with
5 Ms. Ivie with working with the person who took over from her,
6 who did a lot more to coach them, met with them in person, who
7 observed them and helped them improve their skills.

8 Mr. Griffith, Mr. Thomsen, and their colleague,
9 Genie Hamilton, will also be witnesses in this case. They were
10 all district sales managers. So Mr. Thomsen and Mr. Griffith
11 got promoted to district sales managers, and like Genie
12 Hamilton, they had the same position as Ms. Ivie. They will
13 tell you that they fully understood the coaching requirements;
14 that they understood that they were mandatory; and that they
15 complied with them.

16 So let's look at the human resources witnesses in
17 this case. First, as I mentioned, there is Dawn Ceaser. She
18 came in after Ms. Belknap retired, and she was handling the
19 last month of Ms. Ivie's employment. She investigated the May
20 complaints, and she was trying to work hard to improve the
21 relationship between Ms. Ivie and Ms. DiNunzio. She will be a
22 witness, I think today, to testify about that.

23 Karen Belknap will also be a witness, I think today.
24 She will testify about the efforts that she made to try to get
25 Ms. DiNunzio -- to try to get Ms. Ivie's performance to the

Opening Statement

1 right levels and also that she investigated the complaints that
2 were made and determined they were without merit.

3 There is Mr. Pomponi and Ms. McCullough. Mr. Pomponi
4 will be the first witness today. He will appear by video. He
5 will talk about the compliance part of the investigation that
6 he handled and the fact that he determined that the complaint
7 was unsubstantiated, and Ms. McCullough will testify, also by
8 video, also from the compliance department.

9 So who are Ms. Ivie's witnesses? She has two
10 witnesses from AstraZeneca, Linda Truax and Larry Hinson.
11 Linda Truax was a pharmaceutical sales specialist. So she was
12 the person who goes out on the calls with the doctors. She
13 reported to Larry Hinson. She retired from AstraZeneca. The
14 other witness is Larry Hinson. He left AstraZeneca after
15 Ms. DiNunzio complained about his performance to him. But even
16 they agreed that Ms. Ivie wasn't spending 80 percent of her
17 time coaching in the field.

18 So if you conclude that AstraZeneca did fire Ms. Ivie
19 because of her age or because of her complaints or because of
20 her leave of absence, the next issue you get to decide is
21 damages. Ms. Ivie got another job after she left AstraZeneca,
22 but she is saying that she earned less at that other job, and
23 she wants her to give her \$500,000, which over her entire
24 lifetime she says is the difference between what she would have
25 earned had she stayed at AstraZeneca and what she will earn at

Opening Statement

1 her new job.

2 She is also seeking damages for emotional distress.

3 Now, the evidence in this case will show that the emotional
4 distress started in 2018, and that's not surprising. That's
5 because her performance was slipping. She was being coached
6 about her performance. It was before she made the
7 December 19th hotline complaint; before she took her leave of
8 absence. So she couldn't be getting this stress from having
9 made the complaint or from the leave of absence, because the
10 stress started long before that and while her performance was
11 suffering.

12 So let's talk about text messages that Ms. Ivie sent
13 to her friends. So the first one is in June of 2019. This is
14 right after she is let go. She has asked a friend about why
15 she has left, and she says, "Hee, hee. Yes, it's official. I
16 am retired, after 29 years, working full-time, with one
17 husband, two kids, three dogs, and 70 percent travel. I knew I
18 was going to retire in 2019. I just didn't have the exact day.
19 I woke up on June 6th and leaned over to Brian and said, 'Today
20 is the day.' I retired four hours later."

21 The next is a text message from November 2019, five
22 months after she was let go, and she says, "I'm doing great and
23 having the time of my life with my family, friends, and
24 traveling. I am keeping incredibly busy."

25 So back to the three issues in this case: Did

Opening Statement

1 Ms. Ivie prove that AstraZeneca terminated her employment
2 because of her age? The evidence you will hear from the
3 witnesses and the documents you will receive show this is not
4 why she was fired. The same is true about whether she was
5 fired for taking a leave of absence and because she made
6 complaints.

7 On behalf of my client, I want to thank you very much
8 for your time and attention.

9 THE COURT: Thank you. If you would remove the
10 charts. Thank you.

11 Plaintiff, call your first witness.

12 MR. OSWALD: I think it makes sense to take five
13 minutes to get Mr. Pomponi hooked up and ready to go. Is that
14 all right?

15 THE COURT: Okay. We will take our morning recess.
16 Be back in 15, please.

17 THE CLERK: Court is in recess.

18 (Recess.)

19 (Open court; jury not present:)

20 MR. OSWALD: Your Honor, now that we are done with
21 opening statements, may I pass out the jury notebooks?

22 THE COURT: That's fine. Thank you.

23 MR. OSWALD: Your Honor, before we start, will you
24 give maybe a 30-second introduction of what that is sitting on
25 their chair. It is ten documents from those admitted that are

1 for the jury's reference about the case.

2 MR. McCARTHY: May we say that these are documents
3 selected by the plaintiff and not the Court?

4 (Open court; jury present:)

5 THE COURT: Thank you.

6 Jurors, you will notice on your seats there is a
7 black three-ring binder. The Court has received a number of
8 exhibits offered by both defendant and plaintiff in this trial.
9 This notebook is a compilation of ten exhibits from the
10 plaintiff that the plaintiff has pulled from the exhibits
11 received by the Court. So they are exhibits from the plaintiff
12 for your information.

13 We are going to begin with the plaintiff's first
14 witness. I am going to allow the lawyer that is questioning
15 the witness to remove his or her mask. So Mr. Oswald will
16 remove his mask.

17 I assume you are the one questioning.

18 He will remove his mask in order to question the
19 first witness.

20 Thank you.

21 MR. OSWALD: Thank you, Your Honor.

22 The witness's name is Michael Pomponi.

23 THE CLERK: Okay. Mr. Pomponi, if you would please
24 raise your right hand.

25 (The witness was duly sworn.)

M. Pomponi - D

THE CLERK: Thank you. Would you please state your name for the record, spelling your last.

3 THE WITNESS: My full name is Michael Mario Pomponi.
4 Last name is P-O-M-P-O-N-I.

THE CLERK: Thank you.

DIRECT EXAMINATION

7 | BY MR. OSWALD:

8 Q Mr. Pomponi, hello.

9 | A Hello.

10 Q Hi. I'm Scott Oswald. I represent Suzanne Ivie. I don't
11 know if you can see this. We are looking at a chart that we
12 had seen during our opening statement, and there is a picture
13 of you here in the compliance department. You are an employee
14 of AstraZeneca; is that right?

15 A Yes.

16 Q And you are still an employee today?

17 A Yes.

18 Q Now, your title is compliance monitoring senior manager,
19 right?

20 A No. That's inaccurate. My title is senior assurance
21 partner.

22 Q During the period of 2018-2019, were you the commercial
23 compliance monitoring senior manager?

24 A No. I believe my title was still senior assurance partner
25 at that time.

M. Pomponi - D

1 Q But your job is in compliance; is that right?

2 A Right.

3 Q It was then in compliance, and that's now your job in
4 compliance?

5 A Correct.

6 Q Now, you are an experienced compliance professional; is
7 that right?

8 A Right.

9 Q AstraZeneca trains you on its compliance policies, right?

10 A Correct.

11 Q And its ethics policies?

12 A Yes.

13 Q And the False Claims Act?

14 A Yes.

15 Q The False Claims Act is a statute that AstraZeneca takes
16 very seriously, right?

17 A It is. It is.

18 Q Your job in the compliance department is to monitor
19 AstraZeneca's compliance with FDA regulations, right?

20 A Right.

21 Q And to make sure that AstraZeneca does not market its
22 products off label, right?

23 A Correct.

24 Q Now, I want to talk a little bit about policies that
25 AstraZeneca has in place to ensure that it doesn't market

M. Pomponi - D

1 off label, okay?

2 A Sure.

3 Q Okay. So let's take a look at some of these policies.

4 You agree that AstraZeneca must only market FDA-approved
5 products, right?

6 A Correct.

7 Q And only for their FDA-approved uses, right?

8 A Yes.

9 Q And the FDA means the U.S. Food and Drug Administration?

10 A Correct.

11 Q The reason is that marketing for unapproved uses off label
12 could harm patients, right?

13 A It could.

14 Q Now, those rules are actually in AstraZeneca's code of
15 ethics, right?

16 A I don't think the way you stated that is verbatim, but,
17 yes, they are in our policies.

18 Q Let's look at some other policies here. In particular,
19 you agree that AstraZeneca must protect its employees from
20 retaliation when they report in good faith a concern about the
21 company's marketing for an unapproved use, right?

22 A I do.

23 Q And you agree that AstraZeneca must not put its profits
24 over its patients, right?

25 A I agree.

M. Pomponi - D

1 Q Now, I want to turn to your interactions with Suzanne Ivie
2 in 2018 and in 2019, okay?

3 A Sure.

4 Q Suzanne Ivie filed a complaint through EthicsPoint, right?

5 A Yes.

6 Q And that was on December 19th, 2018?

7 A Correct.

8 MR. McCARTHY: Objection, to the extent that I don't
9 believe that Mr. Pomponi can actually see the demonstrative
10 that's being displayed. So I would ask, respectfully, if
11 counsel is going to ask Mr. Pomponi questions about the
12 demonstrative, whether we could position it or the camera in a
13 way that Mr. Pomponi can see the exhibit.

14 THE COURT: Mr. Pomponi, can you see the exhibit that
15 counsel is referencing?

16 THE WITNESS: I cannot. I can see the back of
17 plaintiff's attorney. That's my angle.

18 IT SPECIALIST: I am trying to aim the camera over
19 there.

20 THE COURT: We will try to make an adjustment. Hold
21 on, please.

22 THE WITNESS: Thank you, Your Honor.

23 IT SPECIALIST: We are getting a lot of glare.

24 THE WITNESS: I can see it. Whatever the yellow
25 boxes are, I can't read the writing or see the dates, but I can

M. Pomponi - D

1 see the blue.

2 IT SPECIALIST: Typically we would request that the
3 witnesses have the material in their hands to refer to.

4 THE COURT: So you can see it, but you can't read the
5 writing in the yellow boxes; is that correct?

6 THE WITNESS: I can read the red ones very clearly.
7 If you zoom in that close, I can read them.

8 THE COURT: Okay. Thank you.

9 BY MR. OSWALD:

10 Q Now, Suzanne filed a second complaint through EthicsPoint
11 on February 5th, right?

12 A Correct. But this camera is still going around trying to
13 find that box.

14 Q It is here on our timeline.

15 A Okay. I see it.

16 Q Now, you investigated Suzanne Ivie's December 19th, 2018,
17 and February 5th, 2019, complaints, right?

18 A The compliance elements, yes.

19 Q And you investigated Suzanne Ivie's -- excuse me. You
20 investigated Stephani DiNunzio's instruction to Suzanne to
21 pause after Suzanne forwarded DiNunzio's communication to the
22 compliance department's Terry Grey, right?

23 A That was information that we did receive during the
24 investigation.

25 Q That you did receive?

M. Pomponi - D

1 A Yes.

2 Q And that was an interaction that occurred in August of
3 2018, right?

4 A I'm sorry. I don't know the exact date.

5 Q August 31st, 2018, right?

6 A Yeah, I'm sorry. I don't recall the date that that may
7 have occurred.

8 Q Now, after Suzanne forwarded DiNunzio's email, the
9 August 31st email of 2018 to Terry Grey, Suzanne told you that
10 Stephani called Suzanne right afterward, right?

11 A I'm sorry. I don't recall that.

12 Q That DiNunzio was in fact furious, right?

13 A I do recall something along those lines where there was a
14 conversation that Stephani -- with Suzanne about going to
15 compliance.

16 Q And DiNunzio accused Suzanne of going over her head to
17 compliance, right?

18 A That, I don't recall.

19 Q Well, let me see if I can refresh your recollection.

20 Let's look at Plaintiff's Exhibit 68, page 2. Can we switch so
21 I can show the exhibit?

22 Okay. So let's take a look right at the very bottom.
23 "Stephani was furious that I went over her head. Then Stephani
24 said I could not be part of the RTS team. It wasn't necessary
25 anymore."

M. Pomponi - D

1 Did I read that correctly?

2 A You did.

3 Q Now, Stephani told Suzanne that Suzanne shouldn't have
4 gotten anyone involved, right?

5 A Right.

6 Q And that Suzanne stopped bringing anyone into the
7 conversation?

8 MR. McCARTHY: Objection. Mischaracterizes.

9 THE WITNESS: I don't recall that.

10 THE COURT: The objection is what?

11 MR. McCARTHY: Objection. It mischaracterizes.

12 THE COURT: Mr. Oswald.

13 MR. OSWALD: He can answer the question, Your Honor.
14 I'm asking whether that's what Suzanne Ivie told him.

15 THE COURT: Thank you. Overruled.

16 Sir, go ahead and answer the question.

17 THE WITNESS: Could you restate the question?

18 MR. OSWALD: Certainly.

19 BY MR. OSWALD:

20 Q She told you that DiNunzio said to Suzanne that she
21 shouldn't have gotten anyone involved?

22 A I'm sorry. I don't recall the exact conversation that
23 Suzanne and Stephani may have had.

24 Q That Suzanne stopped needed to stop bringing anyone else
25 into the conversation?

M. Pomponi - D

1 A Again, I'm sorry. I don't recall that.

2 Q Now, Stephani DiNunzio said that she -- DiNunzio -- would
3 need to reevaluate Suzanne being a regional compliance
4 ambassador, right?

5 A That was one of Suzanne's statements, correct.

6 Q And that Suzanne wasn't --

7 MR. OSWALD: Can we put the witness back on? Thank
8 you.

9 THE COURT: Can you hear, sir?

10 THE WITNESS: I can hear you.

11 THE COURT: Perfect.

12 BY MR. OSWALD:

13 Q And that Suzanne was hindering the business?

14 A I don't recall that statement.

15 Q Let's look at Plaintiff's Exhibit 75, page 2. If we could
16 show him the exhibit. Thank you. Page 2. "I need to
17 reevaluate you being a regional compliance ambassador, and we
18 need to win," stating that the caller was hindering the
19 business.

20 Does that help refresh your recollection?

21 A Could you show me the full context of this communication?
22 What was this part of?

23 Q Certainly.

24 A Okay. So, yes, that was part of Suzanne's EthicsPoint
25 submission, that statement that you read.

M. Pomponi - D

1 Q Now, after that exchange, Suzanne told you she had felt
2 retaliation, bullying, and unethical behavior from Stephani
3 since August of 2018, right?

4 A Yes. That was also included in her EthicsPoint report.

5 Q Another thing she complained about was that her boss was
6 expanding the patient base, trying to increase market share,
7 right?

8 A That was an allegation that Suzanne had made.

9 Q What she was complaining about is that Stephani DiNunzio
10 is asking Suzanne -- what she is complaining about is that
11 Stephani DiNunzio is asking Suzanne to identify patients
12 outside of AstraZeneca's drug indications, right?

13 A That's an allegation that Suzanne had made.

14 Q And Suzanne believed this was illegal, right?

15 MR. McCARTHY: Objection, Your Honor.

16 THE COURT: One moment, sir.

17 MR. McCARTHY: Objection. Lack of foundation;
18 personal knowledge.

19 THE COURT: Mr. Oswald.

20 MR. OSWALD: I believe he knows what she told him,
21 Your Honor, so I believe it is an appropriate question.

22 MR. McCARTHY: Your Honor, that wasn't the question.

23 THE COURT: What was the question?

24 BY MR. OSWALD:

25 Q Suzanne told you that she believed this was illegal?

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1 THE COURT: And your objection is?

2 MR. McCARTHY: I will withdraw it. That's a
3 different question. Objection withdrawn.

4 THE COURT: Sir, answer the question, please.

5 THE WITNESS: Could you restate the question, please?

6 BY MR. OSWALD:

7 Q Suzanne told you that she believed that AstraZeneca
8 identifying patients outside of AstraZeneca's drug indications
9 was illegal?

10 A Right. That was the root of Suzanne's allegations.

11 Q Suzanne also told you that Stephani DiNunzio was
12 instructing her to "insinuate (wink, wink)" that AstraZeneca's
13 respiratory products, SYMBICORT, DALIRESP, and BEVESPI have an
14 anxiety and depression indication, right?

15 A I don't believe that's accurate.

16 Q Let's look at Plaintiff's Exhibit No. 81. This document
17 is an EthicsPoint complaint, correct?

18 A It is.

19 Q "We are supposed to insinuate (wink, wink) that our
20 respiratory products, BEVESPI, SYMBICORT, and DALIRESP, have a
21 COPD, anxiety, and depression indication."

22 Did I read that correctly?

23 A You did.

24 Q Now, what she was also saying was that -- what Stephani
25 DiNunzio was asking her and the other reps to do was to say

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1 that taking AstraZeneca's COPD products would help the
2 depressed and anxious patient get their mental illness under
3 control, right?

4 A That is what Suzanne is alleging.

5 Q Because they will feel better?

6 A Those are the words that she used in her report to
7 compliance.

8 Q And you understood precisely what she was saying, right?

9 A Right.

10 Q Now, Suzanne complains to compliance immediately, right?

11 MR. McCARTHY: Objection. Vague.

12 THE COURT: Hold on, sir.

13 Mr. Oswald, will you restate your question, please.

14 BY MR. OSWALD:

15 Q Suzanne complains to compliance immediately?

16 MR. McCARTHY: Objection. Vague.

17 THE COURT: Overruled.

18 THE WITNESS: I don't know the timeline of when she
19 reported this. I believe it was rather quickly. I don't know
20 the time from when she heard the statements and when she
21 reported it.

22 BY MR. OSWALD:

23 Q And she is submitting this quickly, citing the Act Right
24 Now compliance guidelines, right?

25 A She is.

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1 Q And the Act Right Now compliance guidelines are in place
2 to encourage employees, if they see something, to say
3 something, right?

4 A Correct.

5 Q Now, you agree it was right for her to complain
6 immediately, right?

7 A I do.

8 Q That she has the right to complain immediately because she
9 suspected a violation, right?

10 A Absolutely.

11 Q Now, Suzanne also complained that Stephani DiNunzio was
12 asking that she and the other sales reps to use statistics that
13 were unapproved and unsupported, right?

14 A I believe Stephani was encouraging her team to use the
15 Selling with Insights guidelines appropriately.

16 Q Suzanne also complained that Stephani DiNunzio was asking
17 her and the other sales representatives to use statistics that
18 she believed were unapproved and unsupported, right?

19 A Again, I think Stephani was encouraging her team to use
20 the Selling with Insights guidelines appropriately. That may
21 have been Suzanne's interpretation of what Stephani was
22 stating.

23 Q Well, Stephani DiNunzio was asking her reps -- Suzanne
24 told you -- to promote DALIRESP as a primary prevention, right?

25 A That was one of Suzanne's allegations.

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1 Q To get more patients, right?

2 A That's one of the allegations.

3 Q And DiNunzio also asked sales reps to use the stat. that
4 50 percent of COPD patients die on the first exacerbation,
5 right?

6 A Again, that was another statement that Suzanne alleged
7 that Stephani had made.

8 Q And Suzanne told you that she -- Suzanne -- was
9 uncomfortable rolling this out to her team?

10 A She did.

11 Q Suzanne told you that she asked DiNunzio where the
12 statistics had come from, right?

13 A I believe so.

14 Q And DiNunzio responded, "Google it," right?

15 A That was part of Suzanne's report.

16 Q You found Suzanne Ivie to be credible, right?

17 A In terms of taking her report seriously and doing a full
18 investigation.

19 Q On January 23rd, 2019, here on our timeline, you escalated
20 Suzanne's allegations to the highest level of seriousness,
21 right?

22 A At that point the allegation in the investigation was
23 raised to a global compliance investigation.

24 Q The highest level of seriousness, right?

25 A There are different levels of seriousness. There are

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1 different reasons why a case would get escalated to global
2 compliance investigations, and this fit that criteria.

3 Q Now, some of the reasons why you escalate a case to the
4 most serious level, a global level, are that if there is a
5 senior leader direction to promote off label, right?

6 A If there is an allegation from a senior director to
7 promote off label, correct.

8 Q Or if the allegation exceeds a particular monetary value,
9 right?

10 A That's one of the criteria, but that was not in play here.
11 We didn't have any monetary numbers to determine whether or not
12 that needed to be escalated to GCI.

13 Q Now, when you categorize something as a significant global
14 case, you must notify AstraZeneca's U.S. chief compliance
15 officer, Barbara McCullough, right?

16 A Yes.

17 Q And you did that, right?

18 A Yes.

19 Q AstraZeneca also notifies the senior vice president, a man
20 by the name of Mina Makar?

21 A Correct. He is part of the distribution list since it was
22 in his therapeutic area.

23 Q And he is a senior vice president for U.S. Respiratory and
24 Immunology, right?

25 A Correct. I believe that's his title.

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1 Q And you also notify the president of the
2 bio-pharmaceutical unit, Ruud Dobber, right?

3 A Ruud Dobber, correct.

4 Q AstraZeneca also notifies its global headquarters, right?

5 A No, not necessarily global headquarters. There are
6 individuals on a global --

7 THE COURT REPORTER: Judge, I didn't hear the answer.

8 THE COURT: Would you please repeat the answer. You
9 were breaking up.

10 THE WITNESS: Not necessarily global headquarters.
11 There are individuals notified at a global level, such as our
12 global compliance investigations team, as I said, on a global
13 level. But when you say "global headquarters," no, we don't
14 notify anybody at global headquarters.

15 BY MR. OSWALD:

16 Q Well, you notify the global investigators, right?

17 A Correct. Because it was escalated to GCI, the global
18 compliance investigations team.

19 Q Now, you know what a corporate integrity agreement is,
20 right?

21 I'm sorry. Can you say again?

22 A I do.

23 Q A corporate integrity agreement is a document between
24 AstraZeneca and the federal government, right?

25 A A corporate integrity agreement is between any entity and

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1 the federal government.

2 Q And it's part of a civil settlement in exchange for not
3 excluding AstraZeneca from Medicare, right?

4 A AstraZeneca has been part of a corporate integrity
5 agreement in the past, and, yes, that was one of the issues.

6 Q And you know that because, in fact, you were responsible
7 for preparing annual transparency reports that complied with
8 the corporate integrity agreement, right?

9 A I was.

10 Q And AstraZeneca paid significant sums to the federal
11 government as a result of those settlements under those
12 corporate integrity agreements, right?

13 A Right. Correct.

14 Q And at the time of Suzanne's complaint, AstraZeneca had
15 entered into two corporate integrity agreements with the
16 federal government, right?

17 A Previously they had by that point.

18 THE COURT REPORTER: Judge, I need him to repeat the
19 answer.

20 THE COURT: Will you repeat your answer and slow
21 down. You're breaking up.

22 THE WITNESS: Sorry. Yeah. So AstraZeneca was in
23 two previous CIAs, but they had both expired prior to Suzanne's
24 report.

25

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1 BY MR. OSWALD:

2 Q And you wanted to make sure that AstraZeneca didn't enter
3 into a third, right?

4 A My concern was that AstraZeneca does the right thing and
5 investigates all issues that are reported by our employees.

6 Q And you wanted to make sure that AstraZeneca didn't enter
7 into a third corporate integrity agreement, right?

8 A That was not a part of my consideration when raising the
9 investigation.

10 Q You understand the consequences of AstraZeneca being on a
11 corporate integrity agreement, right?

12 A I do.

13 Q And you understand the consequences of AstraZeneca
14 violating a corporate integrity agreement, right?

15 A I'm not sure what you mean by "violating a corporate
16 integrity agreement."

17 Q Well, if AstraZeneca had already been a recidivist -- it
18 had already been on two corporate integrity agreements with the
19 federal government, right -- the federal government is likely
20 not to see kindly on AstraZeneca engaging in similar
21 off-labeling marketing behavior that then results in a third,
22 correct?

23 A Correct. But that wouldn't constitute violating a
24 corporate integrity agreement. We were not under a corporate
25 integrity agreement when Suzanne raised her allegations.

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1 Q Certainly AstraZeneca, if it meets commitments under a
2 corporate integrity agreement to be a pharmaceutical company
3 that does the right thing, it would do that anyway, right?

4 A Which is why we investigated Suzanne's allegations at a
5 global compliance investigation level.

6 Q Let's turn to that investigation now. Now, as part of
7 your investigation into Suzanne's off-labeling marketing
8 complaints, you interviewed some of DiNunzio's employees as
9 part of your investigation, right?

10 A Correct. I believe we interviewed six district managers
11 and six sales reps.

12 Q You interviewed Chad Cederlof, right?

13 A We did.

14 Q And Chad Cederlof confirmed that Stephani DiNunzio brought
15 up the need to increase the DALIRESP patient population, right?

16 A I don't recall all of Chad's interview notes. I do recall
17 Chad not being able to confirm or deny whether anything was
18 actually stated or if he stated something.

19 Q Let's take a look at Plaintiff's Exhibit No. 80,
20 Mr. Pomponi. Before we do that, what Stephani DiNunzio is
21 asking when she brought up the need to increase the DALIRESP
22 patient population, she was saying that it would be by
23 promoting DALIRESP as a primary prevention, right?

24 A Those were the allegations, that Stephani had made those
25 comments.

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1 Q From Chad Cederlof, right?

2 A Again, I don't recall all the interview notes from Chad's
3 interview.

4 Q For patients without any history of exacerbation, right?

5 A Again, I'm sorry. I don't recall all the notes from that
6 interview.

7 Q His concern was that it was promising -- that "it was
8 promising (sic.) too early in the game," right?

9 A If you would bring -- if you want to bring the document
10 up, and we can look at it, I would be happy to.

11 Q Let's look at Plaintiff's Exhibit No. 80 on page 2.

12 "MP: Do you remember -- do you remember Stephani
13 bringing up the need to increase" -- first off, let's go up.
14 Let's see what this document is.

15 Forgive me, Peter. Can you go to the top real quick?

16 Okay. Do you recognize this document?

17 A I do.

18 Q What is this document?

19 A These are the interview notes from Chad Cederlof.

20 Q When you say "these are the interview notes," who took
21 them?

22 A I was the note-taker, and the interviewers were Madalina
23 and Karen.

24 Q So these were your notes?

25 A Correct.

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1 Q Let's look down at the notes themselves. "Do you remember
2 Stephani bringing up the need to increase our DALIRESP patient
3 population by promoting DALIRESP for primary prevention --
4 early on in diagnosis of mild/moderate patients without any
5 history of exacerbation? Or something similar?

6 "ANSWER: Yes.

7 "QUESTION: What was the concern with that statement?

8 "ANSWER: Yes. It was promoting too early in the
9 game. That was the concern."

10 Did I read that correctly?

11 A You did.

12 Q Thank you, Peter.

13 Pat, can we move back?

14 Now, you, Mr. Pomponi, interviewed Mike Devries as
15 well, right?

16 A Correct.

17 Q Mike Devries was one of Stephani DiNunzio's reports, as
18 was Chad Cederlof, right?

19 A Correct.

20 Q Now, Mr. Devries told you that Stephani's marketing
21 messages were questionable, right?

22 A I believe so. I don't remember the exact comment that he
23 made.

24 Q Well, he told you that several members of his team were
25 saying that there were a couple of awkward moments at the

M. Pomponi - D

1 meeting, right, after Stephani DiNunzio gave her presentation?

2 A Right. Mike Devries was not at that meeting.

3 Q You interviewed Karen Clifford, right?

4 A Correct.

5 Q And Karen Clifford was one of Stephani DiNunzio's reports,
6 right?

7 A I believe so. I don't recall if she was one of Suzanne's
8 sales reps or if she was a district manager under Stephani.

9 Q But they ultimately report to Stephani DiNunzio, right?

10 A Yeah.

11 Q And that's why you are interviewing them?

12 A Correct.

13 Q All right. Now, Karen Clifford told you that it was
14 uncomfortable to report in on Monday calls because she felt
15 that Stephani DiNunzio was encouraging off-label marketing,
16 right?

17 A That was her statement.

18 Q Karen Clifford felt that she couldn't ask questions if it
19 was off label, right?

20 A I don't believe that was her exact statement.

21 Q Well, she told you those who did were accused of having a
22 fixed mindset and were forced to leave AstraZeneca, right?

23 A Again, I don't recall if it was from that. I don't recall
24 about a fixed mindset in the interview.

25 Q Let's take a look at page 6 of 79 if we could. Now, can

M. Pomponi - D

1 you tell me what this document is.

2 A The interview notes from our interview with
3 Karen Clifford.

4 Q Whose interview notes?

5 A Mine and Madalina's and Karen's.

6 Q You took these notes, right, as you did with the other
7 ones?

8 A Yes.

9 Q Let's look at page 4.

10 "We hadn't used it, but it wasn't free to ask
11 questions if this was off label, because we were being told we
12 had to use. It was not a free place to discuss, and then you
13 had a fixed mindset and had to leave the company."

14 Did I read that correctly?

15 A You did.

16 Q Thank you, Peter.

17 THE CLERK: Would you clarify the exhibit number one
18 more time, please.

19 MR. OSWALD: Gary, Exhibit No. 79.

20 THE CLERK: 79. Thank you.

21 MR. OSWALD: You're welcome.

22 BY MR. OSWALD:

23 Q All right. Now, you also interviewed Stephani DiNunzio as
24 part of your investigation, right?

25 A Correct.

M. Pomponi - D

1 Q And DiNunzio took no responsibility, right?

2 A She felt that it was up to her managers to more closely
3 monitor Selling with Insights.

4 Q She said it was her employees' job, right?

5 A Correct. Her district managers.

6 Q It was her employees' job to assess the compliance nature
7 of what she was telling them to say, right?

8 A Correct.

9 Q DiNunzio told you and your compliance team, "That's their
10 accountability" -- her subordinates -- "not mine," right?

11 A Yes.

12 Q All right. Mr. Pomponi, let's talk about how the
13 compliance oversight system should work. It is leadership's
14 job to monitor and assess the compliant nature of what the
15 salespeople are saying when marketing AstraZeneca's drugs,
16 right?

17 A Right.

18 Q To make sure that what they say is within AstraZeneca's
19 compliance policy, right?

20 A Correct.

21 Q But, in fact, when you interviewed Kateri Broussard, she
22 told you there was a system failure, right?

23 A You would have to describe what she said with regards to a
24 system failure.

25 Q That there was no formal process in place to determine

M. Pomponi - D

1 that Stephani's marketing messages were not off label, right?

2 A I don't know if she said "Stephani" exactly.

3 Q She said, "There's no formal process in place to make sure
4 that we are not off label," right?

5 A Yeah. She did not attribute that directly to Stephani.

6 Perhaps she was just referring to the general Selling Within
7 Insights.

8 Q Well, Stephani DiNunzio was her boss, right?

9 A She is.

10 Q All right. I want to fast forward to May 21st.

11 All right. Let's turn to May 21st, 2019. Now, it
12 turns out that some of the marketing statements that
13 Stephani DiNunzio asked to be distributed were inappropriate,
14 right?

15 A They were considered unapproved statements, after we
16 reviewed them with our internal promotional regulatory group,
17 who also then said that the majority of them would have been
18 approved if they were submitted through the approval process.

19 Q Some of the marketing statements that Stephani DiNunzio
20 asked to be distributed were inappropriate, right?

21 A They were unapproved statements through our promotional
22 regulatory affairs team.

23 Q Some of them were not appropriate to use, correct?

24 A Correct. They were unapproved. They should not have been
25 used.

M. Pomponi - D

1 Q In fact, the statements that were inappropriate included
2 "patients with COPD and anxiety and/or depression have higher
3 risks of COPD exacerbations, hospitalizations,
4 rehospitalizations, longer stays, and mortality after
5 exacerbation compared to those without co-morbidity. One of
6 the interventions described was targeting dyspnea, as it is
7 associated with both co-morbidities," right?

8 A I believe that was one of the statements.

9 Q And on May 21st global compliance issued its final report
10 on Suzanne's allegation, right?

11 A Correct.

12 Q And the final report found that the statement I just read
13 and another one, "Treatment of 2,500 COPD patients in the UK,
14 mortality rates in COPD patients highest between December and
15 the end of February," that these two statements were off label
16 and illegal, right?

17 A They were not off label. They were unapproved statements.

18 Q They were inappropriate, correct?

19 A But they were not off label. There was no product
20 mentioned with those two statements.

21 Q They were not in line with the U.S. label, correct?

22 A They were not off-label statements.

23 Q All right. Let's look at Plaintiff's Exhibit No. 77, page
24 6.

25 Under "Root Cause and Missed Opportunity Analysis:

M. Pomponi - D

1 We identified at least two statements used by field-based
2 employees that U.S. medical have confirmed are not in line with
3 U.S. label."

4 Did I read that correctly?

5 A You did.

6 Q Now, one of those specifically related to marketing -- one
7 of those specifically related to marketing a COPD medication
8 for depression and anxiety, right?

9 A I would say that's inaccurate.

10 Q All right. Let's go back to the previous exhibit.

11 I'm looking at footnote No. 10. Do you see that?

12 A Correct.

13 Q "We identified at least two statements used by field-based
14 employees that U.S. medical have confirmed are not in line with
15 U.S. labels."

16 The first one, "Patients with COPD and anxiety and/or
17 depression have higher risk of COPD exacerbations,
18 hospitalizations, rehospitalizations, longer stays, and
19 mortality after exacerbation compared to those without
20 co-morbidity. One of the interventions described was targeting
21 dyspnea, as it is associated with both co-morbidities."

22 Did I read that correctly?

23 A You did.

24 Q Thank you. Now, in cases of significant reports, you do a
25 final report, right?

M. Pomponi - D

1 A Yes.

2 Q And on May 21st compliance prepared a final report because
3 Suzanne Ivie's allegations were significant, right?

4 A Correct. That's why it was escalated GCI.

5 Q Now, global compliance recommended that Stephani DiNunzio
6 be retrained, right?

7 A Correct.

8 Q And monitored, right?

9 A I don't recall all the details in the report. I don't
10 know that there was any monitoring piece in there.

11 Q And coached on off-label risk identification and enhanced
12 risk mitigation, right?

13 A Correct.

14 Q In fact, she was to be monitored, right?

15 A I don't know. That's what I'm saying. I don't remember
16 every detail of the report. If you want to show me that and
17 confirm it, but I don't recall there being a monitoring piece
18 in the recommendation.

19 Q Let's look at Plaintiff's Exhibit 75, page 9. "We
20 recommend that her manager, with support from the relevant
21 compliance partner, train, monitor for a limited period of
22 time, and coach the implicated CBD."

23 Did I read that correctly?

24 A You did.

25 Q "And DSMs on off-label risk identification and enhanced

M. Pomponi - D

1 risk mitigation," right?

2 A Correct.

3 Q And the CBD was Stephani DiNunzio, right?

4 A Yes.

5 Q Now, the global compliance investigation was strictly
6 confidential, right?

7 A It was.

8 Q Indeed your entire investigation was strictly
9 confidential, right?

10 A It was.

11 Q In fact, you told every witness that it was confidential,
12 right?

13 A Correct.

14 Q Let's turn back to that investigation for a moment. You
15 interviewed Suzanne Ivie on January 15th, 2019, right?

16 A Yeah.

17 Q You shared your notes of the compliance part of the
18 interview with Karen Belknap on January 23rd?

19 A I did.

20 Q All right. I want to turn to your training for a moment;
21 in particular your training on discrimination and retaliation.

22 A Sure.

23 Q Now, you received annual training on AstraZeneca's
24 anti-discrimination and anti-retaliation policies, right?

25 A Correct.

M. Pomponi - D

1 Q AstraZeneca must prevent its managers from retaliating
2 against employees who report concerns about the company
3 marketing its products for unapproved uses, right?

4 A Correct. AstraZeneca has a zero tolerance retaliation
5 policy.

6 Q That means no retaliation is permitted at all, right?

7 A Correct.

8 Q And AstraZeneca must protect its employees from
9 retaliation when they report in good faith concerns about the
10 company marketing its drugs for unapproved uses, right?

11 A Correct.

12 Q Now, other employees told you during your investigation
13 that they were afraid of Stephani retaliating -- Ms. DiNunzio
14 retaliating against them, right?

15 A I recall one individual stating she was concerned about
16 coming forward. I don't recall a statement about Stephani
17 retaliating against anybody.

18 Q Well, she told you that she felt unsafe, right?

19 A Right. But she didn't attribute that to Stephani.

20 Q And that she wasn't comfortable speaking up about this,
21 right?

22 A Right.

23 Q And that was Karen Clifford, right?

24 A That was.

25 Q Karen Clifford told you during your investigation that she

M. Pomponi - D

1 didn't complain about DiNunzio because it felt unsafe, right?

2 A I don't recall the exact statement that she made with
3 regards to that.

4 Q Karen Clifford told you that DiNunzio retaliated against
5 Dean Smith and Rachel Blythe because they spoke up against her?

6 A I believe that was an allegation made by Karen.

7 Q On May 16th -- on May 16th, Mr. Pomponi, Suzanne Ivie came
8 to you and asked for your help, right?

9 A Correct.

10 Q She emailed you for help on the 16th, right? She told you
11 that she had made several complaints about inappropriate drug
12 marketing, right?

13 A Her email on the 16th, I don't recall there being her
14 referencing compliance in the case. I believe there were HR
15 complaints in that email.

16 Q Let's look at Plaintiff's Exhibit No. 46. Let's turn to
17 the third paragraph. "I have also made several complaints
18 about inappropriate drug marketing."

19 Do you see that?

20 A I do.

21 Q Did I read that correctly?

22 A You did.

23 Q Okay. And she tells you that every time that she does,
24 DiNunzio becomes increasingly hostile, right?

25 A Those are her statements.

M. Pomponi - D

1 Q And DiNunzio tells her that she "just needs to do what
2 DiNunzio tells her to do," right?

3 A That's her statement.

4 Q Suzanne tells you that DiNunzio is discriminating and
5 retaliating against her, right?

6 A That was, I think, the overall theme of this email, yes.

7 Q And that every time that she goes to HR, HR refuses to
8 help her.

9 A I think that was a statement in this email as well.

10 Q That when she went to HR with these issues, HR refused to
11 have a meeting with her that didn't include Stephani, right?

12 A That's Suzanne's statement.

13 Q That she was basically told that HR is there not to help
14 her but to protect AstraZeneca, right?

15 A That's Suzanne.

16 Q Is that right?

17 A That's the statement she made, correct.

18 Q To you?

19 A In this email, yes.

20 Q To you?

21 A Yes, in this email.

22 Q That HR refused to help her and kept sending her back to
23 Stephani, right?

24 A Correct.

25 Q And you responded, right?

M. Pomponi - D

1 A I did.

2 Q You tell her that you will follow back up with her, right?

3 A I believe that's what my statement was.

4 Q But you don't, do you?

5 A No. I shared that report with HR.

6 Q You forwarded her request to HR on the very same day,
7 right?

8 A I believe so.

9 Q I'm sorry. Say it again.

10 A I believe so.

11 Q The very same HR that keeps forwarding Suzanne back to
12 DiNunzio, right?

13 A According to Suzanne.

14 Q Now, let's fast forward to June 5th right here. Now, you
15 learn on June 5th that HR intends to fire Suzanne the next day,
16 right?

17 A I don't recall the note on June 5th.

18 Q You know they are going to fire her before she is fired,
19 right?

20 A I don't recall knowing that.

21 Q Let's look at Plaintiff's Exhibit No. 67. Let's scroll
22 down. First off, do you recognize these emails?

23 A I do.

24 Q Let's go all the way down. Okay. Scroll up for me. Now,
25 the first one is on June 5th, right?

M. Pomponi - D

1 A Yes.

2 Q Okay. And let's go up here. This is an email that is
3 coming to Barbara McCullough and you, right?

4 Barbara McCullough is the highest-ranking compliance official
5 in the United States, and you, right?

6 A She is not the highest-ranking compliance member in the
7 United States. But yes, she did copy me on this email. It
8 went from Amy Welch to Barbara McCullough -- excuse me --
9 Amy Welch copied me on the email.

10 Q All right. Let's go to the top. Dawn informed you that
11 the conversation with Suzanne Ivie is scheduled for this
12 afternoon.

13 What conversation was that?

14 A I don't recall. Honestly, I don't remember. Dawn and I
15 had a quick conversation in the hallway about the HR piece of
16 the allegation. I honestly don't recall what conversation that
17 was.

18 Q Now, AstraZeneca fired Suzanne for not accepting the
19 results of the investigations, right?

20 A I was not involved in her -- I don't know exactly why she
21 was terminated.

22 Q Well, this was sent to you on the 5th of June, right?

23 A These bullet points were sent to me as well?

24 Q Yes. Scroll up for him. That's you right there, isn't
25 it?

M. Pomponi - D

1 A It is.

2 Q So you know on the 5th she is going to be fired, right?

3 A No. I wouldn't say that. I was included on that email.

4 I don't recall reading all the attachments -- all the bullets
5 in that email.

6 Q So you are a compliance professional responsible for the
7 details of compliance investigations, right?

8 A I am.

9 Q And you care about the details, right?

10 A I do.

11 Q And I just want to make sure I understand your position
12 here. Is it your position that you didn't read the entire
13 email string?

14 A I don't recall reviewing -- I may have -- I don't recall
15 reviewing this document.

16 Q Well, had you reviewed it, and you'd seen she is being
17 fired for not accepting the result of the investigations and
18 continues to raise similar complaints. If you would have seen
19 it, that would have concerned you, wouldn't it?

20 A That's not worded --

21 THE COURT REPORTER: I didn't hear the answer.

22 THE COURT: Sir, will you repeat the answer, please.

23 THE WITNESS: I said I don't think that's worded the
24 best way.

25

M. Pomponi - D

1 BY MR. OSWALD:

2 Q Why?

3 THE COURT: Sir, did you hear the question?

4 THE WITNESS: Can you hear me?

5 THE COURT: No, we could not.

6 THE WITNESS: My statement was I don't think that
7 bullet point is worded the best way.

8 BY MR. OSWALD:

9 Q Why, Mr. Pomponi?

10 A Again, it's continuing to raise similar complaints. We
11 obviously take all complaints that are raised seriously.

12 Q Say more.

13 MR. McCARTHY: Objection.

14 THE COURT: Sustained.

15 THE WITNESS: I am not sure what else you would like
16 me to say.

17 THE COURT: Hold on, please.

18 BY MR. OSWALD:

19 Q And this really suggests that you, right -- at least in
20 this case, it didn't hit the mark? The fact that she is being
21 fired for not accepting the results of investigations might
22 sound like retaliation, right?

23 MR. McCARTHY: Objection. Mischaracterizes the
24 document, and it's argumentative.

25 THE COURT: Sustained. Rephrase, please.

M. Pomponi - D

1 BY MR. OSWALD:

2 Q This suggests, does it not, Mr. Pomponi, that maybe this
3 investigation -- there is an appearance that the investigation
4 was not, in fact, handled at the highest level that you expect
5 with zero tolerance for retaliation?

6 MR. McCARTHY: Same objection, Your Honor.

7 BY MR. OSWALD:

8 Q Does it?

9 THE COURT: Sustained. Move on, please, Mr. Oswald.

10 BY MR. OSWALD:

11 Q Now, Mr. Pomponi, on June 6th, the day that AstraZeneca
12 fires Suzanne Ivie, you write that you consider the matter
13 closed, right?

14 A I don't recall sending an email that states that.

15 Q Let's look at Plaintiff's Exhibit No. 81. What is this
16 document, Mr. Pomponi?

17 A These are summary notes from the case entry into our
18 database.

19 Q And these are entered by you, right?

20 A Correct.

21 Q And that's June 6th, 2019, the same day that AstraZeneca
22 fires Suzanne Ivie, right?

23 A Those are the same dates.

24 Q And you write, "We consider this matter closed," right?

25 A Correct. Based on the allegations being investigated

M. Pomponi - D

1 already.

2 Q Now, Suzanne Ivie felt retaliatory conduct from Stephani
3 since August of 2018, right?

4 A I believe that was in her original report.

5 Q You allowed that to continue, didn't you?

6 A No, I did not.

7 Q You never intervened on her behalf, did you?

8 A I'm not sure what you are asking. We did the full
9 investigation.

10 Q Well, you sent her right back to the people that she was
11 saying were discriminating and retaliating against her,
12 correct?

13 MR. McCARTHY: Objection. Argumentative.

14 THE COURT: Rephrase, please.

15 BY MR. OSWALD:

16 Q You sent her back to the same people that she told you
17 were discriminating and retaliating against her, correct?

18 MR. McCARTHY: Objection.

19 THE COURT: Sustained.

20 BY MR. OSWALD:

21 Q You sent her back to HR, correct?

22 A Yes. HR handled the discrimination allegations.

23 Q You never intervened, right?

24 A Yes. I notified HR to take another look.

25 Q You closed your investigation on June 6th, just hours

M. Pomponi - X

1 before HR fired Suzanne Ivie, right?

2 A Correct. That would have been purely coincidental.

3 MR. OSWALD: Mr. Pomponi, thank you. Your counsel
4 will have some questions for you.

5 THE COURT: Thank you. Cross.

6 MR. McCARTHY: Your Honor, may we have just a moment
7 to switch the exhibit displays?

8 THE COURT: Okay.

9 CROSS-EXAMINATION

10 BY MR. McCARTHY:

11 Q Good morning, Mr. Pomponi.

12 A Good morning.

13 Q Can you hear me loud and clear?

14 A I can.

15 Q Is it all right if I call you Mike?

16 A That's fine.

17 Q How long have you been with AstraZeneca?

18 A It will be 20 years total in July.

19 Q And is one of your responsibilities conducting compliance
20 investigations?

21 A It is.

22 Q Can you estimate about how many compliance investigations
23 you think you have worked on during your career with
24 AstraZeneca so far?

25 A I would say it is in the hundreds, as a ballpark. I'd put

M. Pomponi - X

1 it in the hundreds.

2 Q Do you enjoy the work?

3 A I do.

4 Q Why is that?

5 A I am a detail person, and so I get into the weeds. I put
6 the pieces of the puzzle back together and ultimately come to
7 the correct conclusion. Was an allegation substantiated or
8 unsubstantiated?

9 Q As you know, Mr. Pomponi, this case is about Suzanne Ivie.

10 A Yes.

11 Q Mr. Oswald asked you some questions about complaints that
12 Ms. Ivie had brought to the company's attention, correct?

13 A Yes.

14 Q And did Ms. Ivie make some complaints about compliance
15 issues?

16 A She did.

17 Q Did she make some complaints about discrimination and
18 retaliation as well?

19 A She did.

20 Q Were you responsible in your job for investigating any of
21 her allegations about discrimination?

22 A No.

23 Q Why not?

24 A There is a separate line between compliance and HR.

25 Compliance will obviously investigate the compliance policy

M. Pomponi - X

1 breaches, where HR will investigate the alleged HR policy
2 breaches.

3 Q A similar question about retaliation. When someone makes
4 an allegation about retaliation, in your job, are you
5 responsible for investigating the complaint of retaliation?

6 A No.

7 Q Why not?

8 A It is an HR -- it would be an alleged HR policy breach.

9 Q And are there others within the company who handle those
10 complaints?

11 A Yes.

12 Q What department are they with?

13 A Human resources.

14 Q And what you're describing, Mr. Pomponi, is that the case
15 in your experience with all the investigations you have worked
16 on?

17 A Where there's the separation between the compliance and
18 HR, yes.

19 Q I want to talk a little bit about your process of
20 investigating complaints. What's the first thing you do when
21 you receive a complaint?

22 A Review the report to determine what the allegations are,
23 to sort of point us in the right direction, what information do
24 we need to start to gather, what documents do we want to look
25 at, and what individuals we want to interview.

M. Pomponi - X

1 Q How do you know where to look for potential witnesses?

2 A Based on the org. chart. If it is an anonymous report, we
3 would have to get some additional information through our
4 reporting system. But if the reporter lets their name be
5 known, we will go through the org. chart to try to get people
6 to interview.

7 Q How do you know where to look for documents?

8 A Based on the allegation, whether we need to look at some
9 sales aids or expense reports. It's all based on the
10 allegations.

11 Q And are there times when you ask witnesses if they have
12 documents relevant to the complaint?

13 A Absolutely.

14 Q When you read the complaint, do you prejudge any of the
15 allegations?

16 A No. Compliance is a completely neutral party.

17 Q Do you ignore any of the allegations?

18 A No.

19 Q What's your goal at the end of the day in the
20 investigation?

21 A To determine if there is -- if the allegations are true or
22 not, and then if there is a need to tighten up a process or
23 policy, to make those recommendations.

24 Q Okay. So in the investigation in this case, Mike, did
25 anyone at AstraZeneca ask you to limit your work in any way?

M. Pomponi - X

1 A No.

2 Q Did anybody ask you not to ask certain questions?

3 A No.

4 Q Did anybody ask you not to interview certain witnesses?

5 A No.

6 Q Did anybody limit you in any way in the scope of your
7 investigation?

8 A Not at all.

9 Q Is that important to you?

10 A Yes, it is.

11 Q Explain to the jury why.

12 A So going back to my statement about compliance being a
13 neutral party, we want to be able to reach out to wherever we
14 need to get to to get all of the information we need, and then
15 based on evidence, we will come up with whether or not we felt
16 the allegations were substantiated or not.

17 Q And if I ask you to compare sort of this access to
18 information you had in this case with other investigations
19 you've handled in the past, how would you compare those?

20 A They were handled completely the same.

21 Q Now, Mr. Oswald asked you some questions about whether
22 this case was designated as a global or significant case.

23 Do you recall that?

24 A I do.

25 Q Are there differences in terms of the resources, in terms

M. Pomponi - X

1 of personnel that help you on a global case?

2 A There are.

3 Q And what are those?

4 A Global compliance investigators -- again, this is at a
5 global level -- they are all attorneys. So all global
6 compliance investigations are led by attorneys.

7 Q So those are individuals who are -- who are not available
8 to you in a local case?

9 A They are available if we need to bounce something off of
10 somebody, but they would not lead a local case.

11 Q Does escalation to a global case mean that the allegations
12 are true?

13 A No.

14 Q Does it mean that somebody did something wrong?

15 A No.

16 Q Mr. Oswald asked you whether some certain senior folks at
17 AstraZeneca were notified that there was a new global case.

18 Do you recall that?

19 A I do.

20 Q Was that something specific to Ms. Ivie's complaint?

21 A No. That's standard process.

22 Q You testified about the fact that the final GCI report, or
23 global compliance report in this case, did include some
24 recommendations at the end, correct?

25 A It did, correct.

M. Pomponi - X

1 Q Now, when you make -- when AstraZeneca makes
2 recommendations at the end of these reports, are those limited
3 to strictly to what the law requires?

4 A They are not.

5 Q Why not?

6 A Because sometimes the law may not go as far as AstraZeneca
7 would like to with a policy or a process. At the end of the
8 day we want to ensure that AstraZeneca is doing the right thing
9 and doing it the right way. And if we feel that after an
10 investigation a process needs to be tightened up or a policy
11 might need to be reworded a certain way, then we will make that
12 recommendation.

13 Q Are there other cases like this one where you find that
14 the allegations are unsubstantiated and yet you still include
15 recommendations?

16 A There are.

17 Q And how often do you think that occurs?

18 A Maybe 50 percent of the time.

19 Q And why is that, in your experience?

20 A Again, we want to make sure we are always doing the right
21 thing and doing it the right way. If that requires us to
22 tighten up something, whether it is policy or a process, then
23 we are always going to make that recommendation.

24 Q In your investigation, did you find Ms. Ivie's complaints
25 were substantiated or unsubstantiated?

M. Pomponi - X

1 A They were not substantiated.

2 Q Can you summarize the basis for finding that they were not
3 substantiated?

4 A So we interviewed a number of individuals -- again, I am
5 going back -- I think it was six sales reps; six district
6 managers, interviewing them all on Selling with Insights, also
7 asking them about the alleged off-label comments that Stephani
8 had made. Based on those interviews, we determined that the
9 allegations were not substantiated.

10 Q Did you find in your investigation that anyone at
11 AstraZeneca promoted off label to a prescribing physician?

12 A We did not.

13 Q Did you find in your investigation that Stephani DiNunzio
14 directed anyone at AstraZeneca to promote off-label?

15 A We did not.

16 Q And how many witnesses did you interview?

17 A I believe it was a total of 12.

18 Q And when you reached your conclusion that the allegations
19 were unsubstantiated, were you taking into account everything
20 you heard from all of the witnesses?

21 A Yes.

22 Q Were you taking into account everything you read in all of
23 the documents?

24 A We did.

25 Q And if you had found in your investigation, instead, that

M. Pomponi - X

1 somebody at AZ had promoted off label, would the result have
2 been different?

3 A It would have.

4 Q And how would it have been different?

5 A Depending on how that off-label promotion -- if it was --

6 THE COURT REPORTER: Judge --

7 THE COURT: Sir, you are breaking up again. Repeat,
8 please.

9 BY MR. McCARTHY:

10 Q Mike, we lost you. Start your answer again.

11 A Sure. I'm sorry. If we found that an off-label statement
12 was made to a customer, then we would determine where did that
13 come from. Was it a direction from Stephani to make that
14 off-label comment. If it was, then there would have been an
15 outcome in this case for Stephani, and the case would have been
16 substantiated.

17 Q When you were interviewing the AstraZeneca witnesses, did
18 you consider whether the witnesses understood that off-label
19 promotion is not allowed by AstraZeneca?

20 A Yes.

21 Q And what conclusion did you reach about that?

22 A That all sales reps we spoke with and managers understood
23 what off-label promotion was, and that's not permitted in
24 AstraZeneca.

25 Q Did you review any materials or documents in the course of

M. Pomponi - X

1 your investigation that related to training given to folks in
2 the sales force about insights?

3 A Yes.

4 Q Do you recall generally the form that training took?

5 A So it was a slide deck where there were examples of
6 Selling With insights sample, and there was a section in that
7 slide deck that described how -- without using an approved
8 Selling with Insight example how someone could still create
9 their own and still be within compliance.

10 Q And did you have an understanding that was guidance and
11 training that was given to district sales managers?

12 A Yes.

13 Q And did you have an understanding that was guidance and
14 training that was given to sales reps or PSSs?

15 A Yes.

16 Q And why was that -- was that significant to you?

17 A It was. That shows that there was a basis for the
18 managers and the sales reps to understand how to compliantly
19 create a Selling with Insight sample to use with the customer.

20 Q Mr. Pomponi, you were shown some excerpts and asked some
21 questions about your interview notes.

22 Do you recall that?

23 A I do.

24 Q One of those was from Karen Clifford?

25 A Yes.

M. Pomponi - X

1 Q And you were read some excerpts where Ms. Clifford
2 expressed some concerns about speaking up, right?

3 A Correct.

4 Q And in your career at AstraZeneca, have you encountered
5 folks who feel a little bit of hesitation about speaking up at
6 times?

7 A All the time.

8 Q Is that -- does that concern affect the way you do your
9 work?

10 A It does not. We try -- we always try to keep the person
11 at ease and go through the zero tolerance retaliation policy,
12 assure them that the conversation that we are having is
13 strictly a confidential conversation. The details of the
14 conversation will not be shared with anybody outside of the
15 call, and that includes usually a compliance person, the person
16 we are interviewing, and sometimes an HR person.

17 Q Is it your practice to inform every witness you speak with
18 that there will not be retaliation as a result of what they
19 say?

20 A We do go through that with every witness.

21 Q If an employee like Ms. Clifford gives you information
22 during an interview, do you share that with her manager?

23 A We do not.

24 Q Why not?

25 A For the same reasons we were just discussing regarding the

M. Pomponi - X

1 zero tolerance policy and stating that the entire conversation
2 is confidential. We hold onto that. We swear that we are
3 going to keep everything confidential, and we care.

4 Q I want to show you one of the excerpts of interview notes
5 that you were shown by Mr. Oswald.

6 Do you see the document there, Mike?

7 A I can. Can you make it a little larger.

8 Q I'll give it a shot.

9 A I can see it. It is just a little blurry.

10 Q One second. I'll try.

11 A There we go.

12 Q Okay. Thanks for bearing with me everyone.

13 So, Mr. Pomponi, you recall this. This is
14 Plaintiff's Exhibit 80, notes of an interview with
15 Mr. Cederlof?

16 A Correct.

17 Q Now, Mr. Oswald showed you this page of the interview
18 notes. He asked you about some parts of it, and I want to ask
19 you about some other parts?

20 A Sure.

21 Q Do you see at the top of the page it says that Chad called
22 and left you a voice message after the original call with you?

23 A Yes.

24 Q And it looks like you called him back?

25 A I did.

M. Pomponi - X

1 Q And he wanted to share some additional information with
2 you, right?

3 A He did.

4 Q And why did you decide to call him back?

5 A Just to do the full investigation. If anyone had
6 something they wanted to add after we end the call, we always
7 encourage them to call us back or set up some more time or let
8 us know, and we will call them.

9 Q Right. If you look at -- you asked him to elaborate,
10 right?

11 A Yes.

12 Q And you see his answer there. It is like four or five
13 lines. Near the end of the third line it says, "I don't
14 remember" -- let me go back one sentence. It says, "Some folks
15 were uncomfortable about things that were said about being off
16 label. I don't remember hearing those comments. I didn't sell
17 DALIRESP at that time. It was in my bag but not my IC."

18 Do you see that?

19 A I do.

20 Q And what did that mean to you when Mr. Cederlof said that?

21 A It means that he was there and did not remember hearing
22 any of the comments being made by Stephani in regards to using
23 DALIRESP off label or these off-label comments.

24 Q And if you look down a few lines, you asked Mr. Cederlof,
25 "Did Stephani make the statement that everyone was concerned

M. Pomponi - X

1 about?" And you wrote in your notes -- and this is
2 Mr. Cederlof's answer, I believe -- "Yes. But I stand by my
3 original answer that I didn't hear those two statements."

4 Do you see that?

5 A I do.

6 Q And if you look -- there is a -- there is a question near
7 the bottom, "Who corrected the statement?" And the answer is,
8 "I think she was up there telling us the new plan. We all just
9 sort of listened. When she left, we were all like, what? I
10 think Suzanne. I wasn't fully listening, because DALIRESP
11 isn't fully on my radar."

12 Two questions about this. Where it says "Suzanne,"
13 did you have an understanding of who that was referring to?

14 A I did.

15 Q And did you understand from this that Mr. Cederlof was
16 telling you that he believed it was Suzanne who had raised the
17 concern about Stephani?

18 A Yes.

19 Q And when Mr. Cederlof says he wasn't fully listening
20 because DALIRESP wasn't fully on his radar, was that
21 significant to you?

22 A Correct. Because he may not have heard if he wasn't fully
23 paying attention. And DALIRESP not being on his radar or not
24 on his IC, there would be no encouragement for him to sell
25 DALIRESP.

M. Pomponi - X

1 Q Could we have the witness back on the screen.

2 Mike, you were shown portions of the global
3 compliance investigations report, including a footnote that we
4 all saw that referenced two statements that the report had said
5 that were unapproved for use.

6 Do you recall that?

7 A Correct.

8 Q Did either of those two statements mention an AstraZeneca
9 product?

10 A They did not.

11 Q Is that important?

12 A It is.

13 Q Why is that?

14 A For it to be an off-label statement, the product would
15 have to be mentioned with an unapproved use for our products.
16 In this case DALIRESP, or any other AstraZeneca product for
17 that matter, was not mentioned.

18 Q You were asked some questions about your interactions
19 working with Karen Belknap.

20 Do you recall that?

21 A Correct. Yes.

22 Q What department was Karen Belknap with?

23 A Human resources.

24 Q Have you ever met Karen Belknap?

25 A In person, no.

M. Pomponi - X

1 Q Was she in the same office as you were?

2 A No. She is -- actually I believe she is Dallas, Texas,
3 and I'm in Bloomington, Delaware.

4 Q Mr. Oswald asked you some questions about interviews in
5 which you and Ms. Belknap both participated.

6 Do you recall that?

7 A I do.

8 Q Can you explain to the jury your understanding of why
9 Karen was working with you in some of the interviews on
10 Ms. Ivie's complaint?

11 A So Suzanne Ivie raised two types of concerns. We
12 discussed this already as well with the plaintiff's attorney.
13 There is the compliance side and the HR side to allegations.
14 There is a compliance policy breach that will stay on my side.
15 And if there is an HR policy breach, that will go to the human
16 resources side.

17 In this case Suzanne raised allegations that were
18 combined, so there were compliance and human resources
19 allegations in her report. So it is not uncommon at all for
20 compliance and human resources to partner up to interview the
21 witnesses as opposed to scheduling multiple meetings to try to
22 get those interviews and get a report. We work together all
23 the time.

24 Q You explained how it is human resources and not compliance
25 that investigates allegations of discrimination and

M. Pomponi - ReD

1 retaliation. Can you tell the jury your understanding of why
2 they are assigned to do that and not you?

3 A Because those would be HR policy breaches, if confirmed,
4 and not compliance policy.

5 Q And just to sum up, Mr. Pomponi, overall, can you compare
6 your experience and the way you handled this investigation with
7 the way you have executed your duties in hundreds of other
8 investigations that you've conducted at AstraZeneca?

9 A There was no difference. We handled the report as we
10 would any other allegation or report that's submitted in the
11 compliance. We do a full investigation. We do the summary and
12 make recommendations, if possible, and then based on the
13 evidence, come up with the outcome of the case. The only
14 difference in this one as opposed to a local case is that GCI
15 was involved and in a local case where GCI would not be
16 involved.

17 Q By the time of the May 21st report had you concluded that
18 your work on Ms. Ivie's complaint was done?

19 A Yes.

20 MR. McCARTHY: Nothing further, Your Honor.

21 THE COURT: Thank you. I would like to finish this
22 witness before we break for lunch.

23 Mr. Oswald, do you have any redirect?

24 MR. OSWALD: I do, Your Honor. Thank you.

25 REDIRECT EXAMINATION

M. Pomponi - ReD

1 BY MR. OSWALD:

2 Q Mr. Pomponi, with an employee's complaint, if compliance
3 determines that they are unsubstantiated, the employee is still
4 protected from retaliation, right?

5 A Yes.

6 Q And at AstraZeneca, AstraZeneca should never fire someone
7 for raising compliance concerns, right?

8 A Right.

9 Q Now, you mentioned the statements and what it means to be
10 off label, the statements in footnote No. 10. I just want to
11 understand. Had AstraZeneca ever engaged in off-label
12 marketing in the past?

13 A That was the -- that was why we had our CIA.

14 Q Can you tell us more what led to those two corporate
15 integrity agreements?

16 MR. McCARTHY: Your Honor, I object to relevance with
17 respect to the details of those prior settlements, and it's
18 beyond the scope of redirect.

19 THE COURT: Response, Mr. Oswald.

20 MR. OSWALD: I want to understand what was on his
21 mind, Your Honor, when, on the 6th, he is concluding his
22 investigation at the same time within hours of human resources
23 firing Suzanne Ivie.

24 THE COURT: Please rephrase your question.

25 MR. OSWALD: Thank you.

M. Pomponi - ReD

1 BY MR. OSWALD:

2 Q We don't need to go into the amounts of those settlements.
3 I just want to get into a sense of what the allegations were
4 that you understood on the 6th. What did you understand the
5 allegations of those two CIAs were?

6 A The first CIA, I'm not totally clear on. The second CIA
7 was allegations of off-label promotion.

8 Q Of what product?

9 A Seroquel.

10 Q The same product that we're talking about here, right?

11 MR. McCARTHY: Objection.

12 THE WITNESS: No.

13 MR. McCARTHY: Objection.

14 THE COURT: Hold on.

15 BY MR. OSWALD:

16 Q Seroquel is one of the products that AstraZeneca does
17 promote, correct?

18 A It no longer promotes that.

19 Q Was Stephani DiNunzio -- was she ever retrained and
20 monitored?

21 A I can't confirm that.

22 Q So you made the recommendation in the compliance report
23 that she be retrained and monitored, right?

24 A That was in the compliance report, yes.

25 Q Was she?

M. Pomponi - ReD

1 A I can't confirm that.

2 Q You don't know whether she was retrained or monitored?

3 MR. McCARTHY: Objection. Asked and answered.

4 THE COURT: Sustained.

5 BY MR. OSWALD:

6 Q You mentioned, Mr. Pomponi, that you have been with
7 AstraZeneca for 20 years, right?

8 A Yes.

9 Q And you enjoy your work?

10 A I do.

11 Q You intend to remain with AstraZeneca for the remainder of
12 your career, right?

13 A I can't tell you that. I would like to. I enjoy doing
14 what I do, and I enjoy being with the company.

15 Q Any reason that you might be leaving AstraZeneca in the
16 foreseeable future?

17 A I'm not planning to.

18 Q Okay. And you intend to continue to work in your field
19 for the remainder of your career, right?

20 A Are you referring to compliance or just pharmaceuticals in
21 general?

22 Q Compliance -- what you are doing?

23 A No, I wouldn't say that. There are a number of different
24 opportunities within the company.

25 Q Okay. But you would like to stay with AstraZeneca, if you

1 can, for the remainder of your career?

2 A I'm not actively looking for a new job.

3 Q It would be just fine with you to stay with AstraZeneca
4 for the remainder of your career?

5 MR. McCARTHY: Objection, Your Honor. Asked and
6 answered.

7 THE COURT: Sustained.

8 MR. OSWALD: Nothing further, Your Honor.

9 THE COURT: Thank you. Do you have recross?

10 MR. McCARTHY: No, Your Honor. Thank you.

11 THE COURT: May this witness be excused?

12 MR. OSWALD: Thank you.

13 THE COURT: Thank you very much, Mr. Pomponi. We
14 appreciate your time. You are finished with us. Thank you.

15 THE WITNESS: Your Honor, I just want to say thank
16 you for letting me do this virtually as well.

17 THE COURT: My pleasure. Your next witness is who?
18 Remind me.

19 MR. OSWALD: Dawn Ceaser, Your Honor.

20 THE COURT: I'm happy to break for lunch now. Then
21 you can call Ms. Ceaser immediately after lunch.

22 MR. OSWALD: I misspoke. We have some video clips
23 from the corporate deposition. They are about 26 minutes long.
24 We can do it after lunch. I just want to correct that. We
25 have that before Ms. Dawn Ceaser.

1 THE COURT: Okay. We will break for lunch for one
2 hour. So if you could be back, ready to go, by five to 1:00, I
3 would appreciate it. Just as a reminder, don't discuss this
4 case with one another or anybody else.

5 Thank you.

6 (Recess.)

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1 (Afternoon session; open court; jury present:)

THE COURT: Thank you. Please be seated.

Good afternoon. Thank you for being prompt.

4 Jury, plaintiff's next witness is Ms. Welch.

5 Pursuant to the Federal Rules of Civil Procedure, the defendant
6 designated Ms. Welch to testify for the company. It is going
7 to be a video that's going to last a little less than 30
8 minutes. So if you could please pay attention, I would
9 appreciate it.

10 (The video excerpts of Ms. Welch were played in open
11 court.)

12 THE COURT: Ladies and gentleman of the jury, what
13 you just heard was a deposition in lieu of live testimony. A
14 deposition is sworn testimony of a witness taken before trial.
15 The witness is placed under oath to tell the truth and then the
16 lawyers for each party may ask questions. The questions and
17 answers that you just saw are recorded. When a witness is
18 unavailable to testify at trial, the deposition of that person
19 may be used at trial. You should consider deposition testimony
20 presented to you in court in lieu of live testimony in the same
21 way as if the witness had been present in court to testify.

22 || Thank you.

23 Mr. Oswald, call your next witness, please.

24 MR. OSWALD: Thank you, Your Honor. Dawn Ceaser.

25 THE COURT: Please step forward and be sworn, ma'am.

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1 (The witness was duly sworn.)

2 THE CLERK: Thank you. Would you please state your
3 name for the record, spelling your last.

4 THE WITNESS: Dawn Ceaser. Last name C-E-A-S-E-R.

5 MR. OSWALD: Your Honor, just permission to approach.

6 DIRECT EXAMINATION

7 BY MR. OSWALD:

8 Q Ms. Ceaser, hello.

9 A Hello. Is that too loud?

10 Q It is fine actually. I am Scott Oswald. I represent
11 Suzanne Ivie in this matter. Thank you for being here today.

12 A Thank you.

13 Q So we have this chart that we have been looking at during
14 opening and during our first witness. Can you see it from
15 here?

16 A I can, yes.

17 Q So this is AstraZeneca's compliance and human resources
18 departments. This is you here, senior employment relations
19 partner, correct?

20 A That is correct.

21 Q Now, you remain a senior employee relations partner at
22 AstraZeneca, right?

23 A That is correct.

24 Q And you were a senior employee relations partner in 2018
25 and 2019, right?

D. Ceaser - D

1 A That is correct.

2 Q Let's talk about your duties for a minute, if we could.

3 So your duties in the position of senior employment relations
4 partner include, among other things, addressing employee
5 concerns, right?

6 A That is correct.

7 Q And conducting investigations?

8 A That is correct.

9 Q And you also handle performance management and discipline,
10 right?

11 A Yes.

12 Q Now, you have over 20 years of experience as a human
13 resources professional, right?

14 A Yes.

15 Q You know what the Society of Human (sic.) Resource
16 Management is, right?

17 A Yes.

18 Q The Society of Human Resources Management has certified
19 you as a certified professional in human resources, right?

20 A Yes.

21 Q And you had to take a test with the Society of Human
22 Resources Management to certify you, right?

23 A Yes.

24 Q And you have to take Society of Human Resource Management
25 regular training to maintain your certified professional

D. Ceaser - D

1 certification, right?

2 A Yes.

3 Q You have to re-certify every three years for your
4 certified professional certification from the Society of Human
5 Resources Management, right?

6 A Yes.

7 Q This means that you are up-to-date on the most relevant
8 and up-to-date human resource policies and procedures, right?

9 A I would say so, yes.

10 Q All right. So let's talk about some of those policies and
11 procedures. Given your certified professional certification,
12 you are familiar with employee complaint investigation best
13 practices, right?

14 A Yes.

15 Q And consistent with these best practices, the first thing
16 that you should do when you receive an employee complaint is
17 interview the employee complainant, right?

18 A Yes.

19 Q The employee making the complaint, right?

20 A Yes.

21 Q The second thing you should do is interview witnesses,
22 right?

23 A Yes.

24 Q Then you should interview the person accused in the
25 complaint, right?

D. Ceaser - D

1 A That's part of the process. There are other steps though.

2 Q And you interview the person that's accused in the
3 complaint so that the accused has an opportunity to respond to
4 the complaint, right?

5 A That's correct.

6 Q The reason for this, right, is so the accused can give her
7 side of the story, right?

8 A His or her side, yes.

9 Q Now, you're an HR employee relations partner, not an HR
10 business partner, right?

11 A Correct.

12 Q You would never tell an AstraZeneca employee that she was
13 not to go to HR regarding concerns about discrimination and
14 retaliation in the workplace, would you?

15 A Is that a question?

16 Q Yes.

17 A I want to make sure. So can I elaborate on that, please?

18 Q Well, let me just see. You would never tell an
19 AstraZeneca employee that she was not to go to HR regarding
20 concerns about discrimination and retaliation in the workplace?

21 A To not go to HR?

22 Q To not go to HR.

23 A So I just want to make sure I understand the question.
24 You're asking me that I would never tell an employee not to
25 come to HR -- us -- if they have an issue around

D. Ceaser - D

1 discrimination? Is that what you are asking? Or retaliation?

2 Q Yes.

3 A So the answer to that is, no, I would never tell an
4 employee that they cannot come to us if they have concerns
5 around retaliation or discrimination.

6 Q You would never tell an employee that HR was there to
7 protect AstraZeneca and not AstraZeneca's employee, right?

8 A That is correct. We support all employees regardless of
9 your title within the organization.

10 Q In fact, to do so would violate AstraZeneca's code of
11 conduct, right?

12 A Would you -- can you repeat that or rephrase that for me,
13 please?

14 Q Certainly. You would never tell an employee that human
15 resources was there to protect AstraZeneca and not
16 AstraZeneca's employees?

17 A No, I would not say that. Correct.

18 Q To do so would violate AstraZeneca's code of conduct,
19 right?

20 A Yeah, we would not tell an employee that.

21 Q It would violate the Society of Human Resources
22 Management's best practices, right?

23 A I would assume so.

24 Q In fact, if an AstraZeneca employee has concerns about
25 retaliation and discrimination in the workplace, she should

D. Ceaser - D

1 always be free to raise her concerns with HR directly without
2 having to go to her management, right?

3 A So may I elaborate on that statement, because that's not
4 necessarily a yes or no. I would like to explain a little bit
5 more, if I may.

6 Q Sure.

7 A Okay. So there are a number of ways in which an employee
8 can raise a concern. They can do so anonymously through our AZ
9 ethics line. They can raise a complaint with their manager.
10 They can raise a complaint with their manager's manager. They
11 can raise a complaint with HR. So I want to make sure that I'm
12 very clear and expansive around the various ways in which an
13 employee can raise concerns within the organization.

14 Q I have it. And I just want to put a finer point on that.
15 If an AstraZeneca employee has concerns about retaliation and
16 discrimination in the workplace, she's always free to raise her
17 concerns with HR directly, right?

18 A She can. He or she can, yes.

19 Q Without having to go to her manager first, right?

20 A Yes.

21 Q Or her manager's manager first, right?

22 A Yeah. They can come directly to HR, absolutely.

23 Q You would never tell an employee that complained to you
24 about discrimination or retaliation to forget the past and move
25 on, right?

D. Ceaser - D

1 A I wouldn't use those words, no. I would not.

2 Q To do so would violate AstraZeneca's code of conduct,
3 right?

4 A So in terms of that phrase, where you say "to move on and
5 forget the past," I don't know that that's a violation of code
6 of conduct the way that you're phrasing the statement. So I
7 just want to be clear around what it is that I'm responding to
8 with your question.

9 Q You would never tell an employee that complained to you
10 about discrimination or retaliation "to forget the past and
11 move on"?

12 A No, I would never tell a person to forget the past and
13 move on. No, I would not say those words, not that I can
14 recall anyway.

15 Q It sounds like you would never say anything like that,
16 right?

17 A I would not -- I don't know -- I don't believe that I
18 would say "move on and forget the past."

19 Now -- can I elaborate again, if I may?

20 Q I'm asking whether or not you would say that.

21 A I wouldn't use those words, but there are some things that
22 I would say, and I just want to find out if I have the ability
23 to elaborate.

24 Q Absolutely. But let's just make sure we are clear. If an
25 employee comes to you and says, "Look, I'm being retaliated

D. Ceaser - D

1 against and discriminated against," and that's the scenario.
2 They are telling you this. They are with you knee to knee,
3 face to face --

4 A Uh-huh.

5 Q -- am I right that you would not say to that person, "You
6 know what, you ought to just forget the past and move on"?

7 A I understand what you are saying. The answer would be no.

8 Q In fact, that would violate AstraZeneca's code of conduct,
9 wouldn't it?

10 A I would need -- if you don't mind, I would like to have
11 the ability -- because, again, I don't want to get this
12 wrong -- I would like to see what our code of conduct says
13 based on your question so I can make sure that I am responding
14 correctly.

15 Q That's fair. Now, you agree, do you not, that it is HR's
16 job to prevent discrimination -- unlawful discrimination and
17 retaliation in the workplace, right?

18 A Yes.

19 Q And you agree that that, in fact, is in AstraZeneca's code
20 of conduct, right?

21 A Yes.

22 Q And you agree that it is HR's job to protect employees
23 from any kind of discrimination or retaliation in the
24 workplace, right?

25 A Correct.

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1 Q And that too is in AstraZeneca's code of conduct, correct?

2 A Yes.

3 Q And if you did not do those things, you would violate
4 AstraZeneca's code of conduct, correct?

5 A Yes. I would not be -- yes. I would say yes.

6 Q And it would violate the Society of Human Resources
7 Management's best practices, right?

8 A I would assume so. Yes.

9 Q Ms. Ceaser, I am going to turn to the May 2019 time frame,
10 okay?

11 A Okay.

12 Q Now, in May of 2019, Suzanne Ivie emailed you and said
13 that she had some additional concerns, right?

14 A Yes.

15 Q She felt that these concerns had not been addressed in
16 previous complaints, right?

17 A That's what she alleged in her email.

18 Q Suzanne brought you three complaints, right?

19 A I'm not sure how many complaints that she brought forward.
20 I think there may have been more than three, but there were
21 three new allegations that had not been previously
22 investigated.

23 Q And you told Suzanne that you would investigate these
24 three complaints, right?

25 A Yes.

D. Ceaser - D

1 Q Two of the three concerns dealt with age discrimination,
2 right?

3 A Yes.

4 Q Suzanne alleged that Ms. DiNunzio made a comment about her
5 wrinkles, right?

6 A Yes.

7 Q And that DiNunzio had used a nickname "Benatar" that
8 Suzanne was uncomfortable with, and she felt was age-related,
9 right?

10 A That's what Suzanne had alleged, yes.

11 Q Now, you know that at AstraZeneca a pharmaceutical company
12 must prevent managers from using age as a factor in any
13 decision relating to that employee's employment, right?

14 A Yeah.

15 Q And as we said, AstraZeneca must protect employees who
16 raise concerns about their manager treating them differently
17 because of their age, right?

18 A Yes.

19 Q Now, you viewed all of these complaints as new concerns,
20 because you viewed them as not in any of the complaints that
21 Suzanne had made with Ms. Belknap, right?

22 A Yes.

23 Q You confronted DiNunzio with Suzanne's allegations, right?

24 A I asked the question. I don't know that I used the word
25 "confronted." I investigated it, and I asked her questions

D. Ceaser - D

1 around Suzanne's allegations, yes.

2 Q Because she was the accused, right?

3 A Yes, that's correct.

4 Q You confronted her with the allegation. You said, "These
5 are the allegations Suzanne has made about you; I want your
6 response," right?

7 A Right.

8 Q Now, DiNunzio admitted that she had talked about Suzanne's
9 appearance, right?

10 A Yes. In a favorable way.

11 Q In fact, DiNunzio said that she did comment on Suzanne
12 being a very beautiful woman, right?

13 A Yes.

14 Q DiNunzio admitted that she did comment on Suzanne's hair,
15 right?

16 A Yes.

17 Q And complexion?

18 A Yes. That she had very nice complexion, if I recall.

19 Q Now, Ms. DiNunzio also admitted that Ms. DiNunzio called
20 Suzanne the nickname "Benatar," right?

21 A Correct.

22 Q Ms. DiNunzio denied to you that these comments were
23 age-related, right?

24 A Correct.

25 Q Now, you asked for Suzanne's response, right?

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1 A Yes.

2 Q Suzanne told you that at a district meeting in 2018,
3 DiNunzio handed Suzanne a water bottle with "Benatar" printed
4 on it, right?

5 A Yes.

6 Q Suzanne told you that Suzanne had confronted Ms. DiNunzio
7 and said, "I prefer to be called Suzanne in a professional
8 setting," right?

9 A That is what Suzanne had told me, yeah.

10 Q Suzanne then told you that she -- Suzanne then said that
11 she told Ms. DiNunzio that the "Benatar" nickname embarrassed
12 her, right?

13 A That, I'm not a hundred percent certain on.

14 Q Okay. Let's take a look at Plaintiff's Exhibit No. 39, if
15 we could. This is actually going to be on your screen.

16 A Okay.

17 Q Now, what is this document?

18 A This is an email that Suzanne Ivie sent to me.

19 Q It looks like it is on May 24th at the top there?

20 A Yes.

21 Q And the subject is "Benatar nickname - HR request," right?

22 A Yes.

23 Q You are asking her -- you confronted -- you went back to
24 Suzanne and asked her to respond to Stephani DiNunzio's
25 denials, right?

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1 MS. RIECHERT: Your Honor, this is one of the emails
2 that we need the limiting instruction on.

3 THE COURT: Okay.

4 Mr. Oswald, can you skip this for the moment and come
5 back to this?

6 MR. OSWALD: Your Honor, I can't. It is part of
7 the --

8 MS. RIECHERT: I don't mind if the instruction comes
9 in a little bit later, but we need to reference the fact that
10 it is related to this document.

11 THE COURT: Continue, sir.

12 Thank you.

13 MR. OSWALD: I'm happy to stipulate. This is what
14 Ms. Ceaser knew and when she knew it. That's where this is
15 going.

16 THE COURT: Thank you.

17 BY MR. OSWALD:

18 Q All right. Now, this is an email from Suzanne to you,
19 right?

20 A Yes.

21 Q And you take your responsibility seriously. You read this
22 very carefully at the time, right?

23 A Yes.

24 Q Now, take a look here. Does this help refresh your
25 recollection at all?

D. Ceaser - D

1 A Yes, it does. Thank you.

2 Q Okay. So Suzanne then says to you that she told
3 Ms. DiNunzio that the "Benatar" nickname embarrassed her,
4 right?

5 A Yes, according to that email.

6 Q And Suzanne told you that Ms. DiNunzio responded, "It's
7 funny; just lighten up," right?

8 A According to that email.

9 Q Which you read at the time, right?

10 A Yes.

11 Q Suzanne told you that thereafter, when her peers would
12 call her "Suzanne," Ms. DiNunzio would interrupt them and tell
13 her peers to call her "Benatar," right?

14 A According to the email, yes.

15 Q And Suzanne told you that she felt humiliated, right?

16 A Yes, according to the email.

17 Q Now, you're not aware of Suzanne ever making a complaint
18 to HR or compliance before raising her concerns about
19 Ms. DiNunzio, right?

20 A Can you repeat the question, please?

21 Q Yes. You are not aware of Suzanne ever making a complaint
22 to HR or compliance before raising her concerns about
23 Ms. DiNunzio, right?

24 A I would say that would be false.

25 Q Would you take a look at that deposition for me, the one

D. Ceaser - D

1 that's up there on the left.

2 A Uh-huh.

3 Q Turn to page 67 for me, line 19. Let me know when you are
4 there.

5 Just let me know when you are at that line.

6 A I see it.

7 Q "QUESTION: Okay. Are you aware if Ms. Ivie ever
8 made a complaint to HR or compliance about a supervisor prior
9 to raising these concerns about Stephani DiNunzio?

10 "ANSWER: No, I did not."

11 Did I read that correctly?

12 A Yes.

13 Q Now --

14 A May I elaborate, or not?

15 Q Not right now. I'll give you a chance in a minute. Close
16 that up for me.

17 A Okay.

18 Q Now, you were aware of employees who complained about
19 DiNunzio and how she treated them, right, at the time?

20 A Can I go back to page 67, because I think what you are
21 asking me now and what you asked me previously are two totally
22 different questions, and I want to make sure that I'm
23 understanding exactly what you're asking.

24 So may I just recall what I think I heard you say?

25 Q Absolutely. Go ahead.

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1 A So the previous question that you asked, based on what I'm
2 hearing you say, was: Was I aware that Suzanne Ivie had made
3 complaints -- either HR complaints or compliance complaints --
4 about Stephani DiNunzio?

5 Is that the question that you asked me?

6 Q No.

7 A Okay. All right.

8 Q The question I asked you was: Are you aware of Suzanne
9 complaining about any other manager other than
10 Stephani DiNunzio?

11 A Oh, no. No.

12 Q Okay.

13 A So thank you for allowing me to repeat that back so I can
14 make sure that I understand exactly what you're saying.

15 Q Completely fair.

16 A Okay.

17 Q Now, you were aware of employees who complained about how
18 DiNunzio treated them, right?

19 A Not during the May 24th time frame.

20 Q Well, you were aware of other employees making complaints
21 about Stephani DiNunzio?

22 A That was way after the fact, like, I only had the client
23 group for about a month. So there is no way that I could have
24 known that at that particular time. I don't believe, in terms
25 of your time frame of May 24th, if I knew that, that there were

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1 complaints at that particular time. I don't recall that.

2 Q Well, you're a very careful human resources professional,
3 right?

4 A Yes.

5 Q And you know that sometimes managers, who engage in
6 discrimination or retaliation, sometimes they do it with a
7 number of employees, right? It does happen?

8 A I would hope that doesn't happen at AstraZeneca.

9 Q We are going to get there.

10 A Okay.

11 Q But you would look to see, would you not -- you'd look in
12 the manager's file and see whether there are any other
13 complaints about that manager that might be similar to the
14 complaint that you've gotten from the employee, right?

15 A Yes.

16 Q Okay.

17 A But can I clarify that, sir?

18 Q Sure.

19 A So whenever you say the words "manager file," our files
20 are electronic. So the other piece that I think is really
21 important for you to understand and the jury to understand is
22 that, if I'm not the person who is investigating that
23 particular allegation, I don't necessarily know that the
24 allegation has happened unless I am added to the case. So if
25 there were previous issues regarding Stephani DiNunzio that was

D. Ceaser - D

1 investigated by a different HR person, I would not necessarily
2 have access to that case. So I want to be very, very clear and
3 very transparent in terms of my response.

4 Q So if the evidence shows that you were, in fact, on the
5 Larry Hinson complaint of age discrimination, that would show
6 that you knew about the case, right?

7 A So can I explain that as well?

8 Q Please.

9 A When Karen Belknap retired, she added me so that I had
10 knowledge of whatever outstanding cases that she was working
11 on, and so I don't know whether or not she added me to Larry
12 Hinson or not. So I can't -- that's two years ago, so I don't
13 know the answer to that.

14 I know that Karen would have added me to issues that
15 she was currently investigating and that were coming to a
16 conclusion. But if we are talking about something that
17 happened two years ago or a year ago, I don't know that Karen
18 would have added me to an EthicsPoint case that I would not
19 need to pick up or know about. So I just want to be clear
20 about my response as it relates to that.

21 Q I understand. Karen Belknap, just so the jury
22 understands, she retired on May 3rd, 2019, right?

23 A That is correct. Yes.

24 Q And that's before the period we are talking about right
25 now, right?

D. Ceaser - D

1 A I don't know that Larry Hinson is part of the period that
2 we're talking about right now, because that's not a name that
3 I'm familiar with or had any line of sight to. So I'm not sure
4 how Larry comes into play here.

5 Q You were investigating Suzanne Ivie's complaint, right,
6 that she raised with you in the May time frame, correct?

7 A That is correct.

8 Q And that's after Karen Belknap had retired?

9 A Yes.

10 Q So let's turn back to your investigation of Suzanne's
11 complaints about Stephani DiNunzio treating her differently
12 because of her age. Now, you interviewed no witnesses other
13 than Suzanne herself and Ms. DiNunzio, right?

14 A Correct, because when I asked Suzanne were there any
15 witnesses that I needed to talk to, was there anyone who may
16 have overheard the complaint, there was no information that
17 Suzanne had provided me in terms of witnesses, and that
18 question was asked.

19 Q You instructed DiNunzio to discontinue using nicknames
20 when referring to subordinates, right?

21 A That is correct, yes.

22 Q Yet you held that Suzanne's concerns were unsubstantiated,
23 right?

24 A Correct. Yes.

25 Q I'm going to show you now an email that Mr. Pomponi has

D. Ceaser - D

1 testified that he forwarded to you on May 16th of 2019. This
2 is Plaintiff's Exhibit No. 46. Just so we are on -- we are
3 here on our timeline, May 16th, 2019.

4 A Okay.

5 Q Now, Suzanne says here that she went to HR -- to you and
6 Karen Belknap -- and that you refused to have a meeting with
7 her without DiNunzio. Do you see that?

8 MS. RIECHERT: Your Honor, this is another exhibit
9 that we need that limiting instruction on.

10 THE COURT: Absolutely. Counsel, if you would pause
11 for one moment, please.

12 Members of the jury, I did read this instruction to
13 you yesterday at the beginning, but I know you had all sorts of
14 information coming at you. So I'm going to remind you and tell
15 you again that some evidence may be admitted only for a limited
16 purpose. When I instruct you that an item of evidence has been
17 admitted only for a limited purpose, you must consider it only
18 for that limited purpose and not for any other purpose. Here,
19 plaintiff's counsel, as you saw, will show you or refer to
20 certain emails, and those are offered into evidence. In those
21 emails, plaintiff expressed concerns about off-label promotion,
22 made complaints about age discrimination, or made other
23 complaints to or about individuals at AstraZeneca. Those
24 emails are not being offered to establish that the complaints
25 that plaintiff made were true but must be considered only for

D. Ceaser - D

1 the limited purpose of showing that plaintiff, in fact, sent
2 the emails making the complaints and not for any other purpose.

3 Thank you.

4 Mr. Oswald.

5 MR. OSWALD: Thank you, Your Honor.

6 BY MR. OSWALD:

7 Q This is Plaintiff's Exhibit 46, which is in the notebook
8 that you have in front of you.

9 Okay. So just back to this email here, Suzanne is
10 saying she went to HR -- to you and Ms. Belknap -- and you
11 refused to have a meeting with her without Stephani DiNunzio.
12 I want to look at what else was happening on May 16th. So we
13 are here on the timeline on May 16th, right here.

14 Now, on the same day, May 16th, you create a case
15 alleging that Suzanne is not meeting AstraZeneca's performance
16 standard, right?

17 A Can you bring that up so that I can see exactly what you
18 are referring to?

19 Q Yes. Plaintiff's Exhibit 95. It will be on your screen.

20 A Okay.

21 Q Do you see what it says there? It says, "Received/report
22 date." What date is that?

23 A 5-16.

24 Q May 16th, 2019, right?

25 A Uh-huh.

D. Ceaser - D

1 Q It says here, "Creator."

2 Do you see that?

3 A Yes.

4 Q That's you, Dawn Ceaser?

5 A Correct.

6 Q "Primary issue, performance," right?

7 A Correct.

8 Q So on the same day you create a case alleging that Suzanne
9 is not meeting AstraZeneca's performance standard, right?

10 A So the date of the email that you just brought up, was
11 that the 17th or 18th of May? Can you bring up that email
12 again, please?

13 Q Absolutely. It was the 16th. I'm asking you whether this
14 is the 16th.

15 A So the email that Suzanne sent to Teresa Grey and
16 Mike Pomponi is on May 16th.

17 Q Yes.

18 A Right.

19 Q My question to you is: On the same day, you create a case
20 alleging that Suzanne is not meeting AstraZeneca's performance
21 standard, correct?

22 A Correct. Right.

23 Q Now, you met with Matt Gray and Stephani DiNunzio in
24 person about Suzanne's performance, right?

25 A It was about a number of things, so it's not just limited

D. Ceaser - D

1 to performance.

2 Q Well, it was about the recommendation to fire her, wasn't
3 it?

4 A On May 16th?

5 Q My question to you is you met with Matt Gray and
6 Ms. DiNunzio in person about Suzanne's performance, right?

7 A I did. But what time frame are you referring to?

8 Q I'm just asking whether you met with him in person?

9 A I had. I met with them in person, I believe, twice. So
10 I'm trying to understand at what point are we talking about
11 here.

12 Q Well, during these meetings that you are having with
13 Matt Gray and with Ms. DiNunzio, Ms. DiNunzio is telling you
14 that Suzanne is not performing any work, right?

15 A Correct. Do I have an opportunity to elaborate or not?

16 Q Let me ask you something, and then I'll be happy to have
17 you elaborate. I want to be clear. So Matt Gray and
18 Ms. DiNunzio recommend that AstraZeneca fire Suzanne, right?

19 A So, again, can I ask a question so I make sure that I'm
20 understanding what you are saying? So are we talking about a
21 particular time frame or are we talking about a meeting in
22 general, because you're referring to the May 16th time frame,
23 and I want to be clear that we didn't have a conversation
24 around May 16th or in that area around any recommendation for
25 Suzanne to be terminated. So I want to be clear about that.

D. Ceaser - D

1 So that's why I'm trying to understand.

2 Q What I'm trying to show is you created a case on the 16th?

3 A I did.

4 Q That's all I'm asking. And you met with Matt Gray and
5 Stephani DiNunzio about Suzanne?

6 A Yes.

7 Q And you did so in person?

8 A Yes.

9 Q And Matt Gray and Stephani DiNunzio recommend that
10 AstraZeneca fire Suzanne, right?

11 A May I elaborate again, because I don't think that's
12 necessarily a yes or no, and I can explain, if you don't mind.

13 Q Go right ahead.

14 A So that didn't happen on May 16th. That happened towards
15 the end of May or the beginning of June where there was a
16 summation that there was no work that could be demonstrated in
17 terms of seeing that Suzanne was performing in territory. So I
18 had a termination discussion with the two of them in the room,
19 but it was Matt Gray who made the decision to move forward with
20 the termination. So I want to be very clear about how that
21 conversation transpired.

22 Q Well, it was, in fact, Matt Gray and Stephani DiNunzio
23 that recommended that AstraZeneca fire Suzanne, right?

24 A There was a discussion around what are the next steps.
25 There was discussion around whether or not there was other

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1 things that we can do to get things back on track, which I
2 attempted to do with Suzanne on a number of occasions, and
3 that, based on all of the evidence that was presented to me in
4 terms of there was just no demonstration of any performance
5 that was being done in the territory. So there were a number
6 of factors that we looked at. I don't know if you want me to
7 go through all of that or not.

8 Q I want you to look at your deposition page 52, line 21.
9 Let me know when you are there.

10 A Okay. What line? 22?

11 Q 21.

12 A 21. Okay.

13 Q "QUESTION: Who made the recommendation to terminate?
14 "ANSWER: I believe the recommendation came from the
15 business, and so that would have been Matt and Suzanne.

16 "QUESTION: You mean Stephani DiNunzio?

17 "ANSWER: Yes. I mean Stephani. I'm sorry. I
18 apologize."

19 Did I read that correctly?

20 A That is correct, yes.

21 Q You can close that up now.

22 Now, you considered nothing beyond this conversation
23 with Mr. Gray and Ms. DiNunzio in deciding to fire Suzanne,
24 right?

25 A That is incorrect.

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1 Q Let's go back to your deposition. Page 58, please.

2 A Okay.

3 Q 58, line 13. You said that there was, "you know, several
4 things that" -- you -- "considered. And so I was wondering if
5 there was anything outside of that conversation with
6 Stephani DiNunzio and Matt Gray.

7 "ANSWER: No."

8 Did I read that correctly?

9 A If you read the first part, it says that there were
10 several things that I considered, which is what came from, I
11 guess, your counsel. So there were several things that were
12 considered.

13 Q Was there anything outside the conversation outside of
14 Stephani DiNunzio and Matt Gray?

15 A Yes. We talked about several things.

16 Q Please. What were they?

17 A Okay. So in looking at in terms of the reason to make the
18 decision to move forward with the termination, we looked at the
19 last two years of Stephani's performance reviews. We would
20 have looked at -- I would have taken into consideration the
21 first written warning that Suzanne had received that year. I
22 also would have looked at in terms of totality: Is there
23 anything that I'm missing? Is there any other documents or
24 supporting information that is needed? The other thing that I
25 also looked at is whether or not the compliance investigation

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1 had come to a conclusion. So there were a lot of factors that
2 I looked at before coming to any decision around where we would
3 be.

4 Q You never talked to Suzanne about DiNunzio's allegations
5 that she was not performing any work, right?

6 A Actually -- so here is how --

7 Q A yes-or-no answer. Either you did or didn't. Did you
8 talk to Suzanne Ivie about the allegation that DiNunzio had
9 leveled that Suzanne was performing no work?

10 A No.

11 Q Now, you did talk to Barbara McCullough, right?

12 A I did, yeah.

13 Q The top-ranking AstraZeneca compliance official in
14 North America, right?

15 A I don't know that Barbara was the top-ranking official at
16 the time, but she is the VP of compliance.

17 Q For North America?

18 A Yes.

19 Q Okay. That includes the United States, right?

20 A Yes. But I don't know that there was somebody else above
21 Barbara is what I'm saying that could be the top-ranking person
22 in compliance.

23 Q I got it. You never placed Suzanne on a performance
24 improvement plan, right?

25 A No, I did not.

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1 Q You didn't even consider it, right?

2 A Can I elaborate on my yes or no?

3 Q I would like you to answer my question, if you could. You
4 didn't consider it, did you?

5 A I considered a lot of things when making that decision.

6 Q You did not consider putting her on a performance
7 improvement plan?

8 A That was not part of the decision, so the answer would be
9 no.

10 Q Now, on the performance track at AstraZeneca, generally a
11 performance improvement plan is the next step before firing an
12 employee, right?

13 A Yes.

14 Q Now, within the past year you knew that Stephani DiNunzio
15 had placed one of Suzanne Ivie's peers, who Suzanne told you
16 was a younger man, on a performance improvement plan, right?

17 A I don't recall that conversation. Is that something that
18 is in either an email or in my deposition that I can look at?

19 Q Sure. Let's take a look at Plaintiff's Exhibit No. 111.

20 A Okay.

21 Q You were aware that Stephani DiNunzio had placed
22 Andrew Maratas on a performance review plan, were you not?

23 A I wasn't over respiratory during that time frame.

24 Q Let's look at Plaintiff's Exhibit No. 73 for a minute.

25 This is an email from Stephani DiNunzio to you, right, dated

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1 May 20th?

2 A That says to Matt Gray. Okay. Yes, I see it now.

3 Q And you carefully reviewed this email, right?

4 A Can you scroll up, please?

5 Q Certainly.

6 A Yes. May I ask a question?

7 Q In a minute. I wanted to address your concern. Now,
8 under the comments about appearance, it says -- Ms. DiNunzio
9 says to you, "A member of my team who is younger than Suzanne
10 was placed on a plan in 2018."

11 Did I read that correctly?

12 A Yes.

13 Q So you knew that as of the 20th of May, 2019, right?

14 A So the email says a member of her team. The email doesn't
15 say who the person was, in terms of Andrew Maratas is the
16 person that was placed on the plan. So, again, I was not
17 supporting respiratory in 2018. So the previous email that you
18 brought up or the previous case that you brought up, I was not
19 supporting that team during that time.

20 Q Ms. DiNunzio informed you on May 20th, 2019, that she had
21 placed a younger peer of Suzanne Ivie's on a performance
22 improvement plan, right?

23 A According to the email, yes.

24 Q And that drew your attention, didn't it?

25 A I'm not understanding the question.

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1 Q You took note of that, didn't you?

2 A Again, I'm not following where you are going with the
3 question.

4 Q As a very experienced human resources professional who has
5 been at this for 20 years with a certification from the Society
6 of Human Resources Management, the fact that she is telling you
7 that she had placed a younger peer of Suzanne Ivie's on a
8 performance improvement plan, that did alert your attention,
9 did it not? You took note of that?

10 A I would say, yes, I would have taken note of everything
11 that she would have put in the email, not just specific to that
12 but everything that was put in the email.

13 Q Well, as someone who is an experienced human resources
14 professional, your antenna is always up for a potential of age
15 discrimination, right?

16 A Yes. It should be, yes.

17 Q And age discrimination is treating one person differently
18 because of their age than somebody else, right?

19 A Yes.

20 Q But you never asked DiNunzio anything about the
21 circumstances surrounding the plan that she had placed the
22 younger peer of Suzanne Ivie's?

23 A Would this be a time that I can elaborate?

24 Q Just a "yes" or "no" would be helpful.

25 A Can you repeat the question, again?

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1 Q Certainly. You never asked her about anything relating to
2 the younger employee that she had placed on a performance
3 improvement plan that she is alerting you in this email?

4 A So if I can recall that time frame, I believe that I would
5 have, A, looked at her entire team to see what the ages were of
6 the people that worked for her. And from what I can recall
7 during that time of me taking a look at that, the majority of
8 her team was over the age of 40, with the exception of one
9 person.

10 Q The one person that she had placed on a performance
11 improvement plan, Andrew Maratas, right?

12 A So if you can go back to that for a minute, because I
13 thought I saw something in there that said "coaching" -- not
14 the email but the actual EthicsPoint case that you had brought
15 up earlier. May I just take a look at that again?

16 Q Absolutely. So you looked at this at the time?

17 A Yes. But we're talking two years ago.

18 Q I understand. Let's take a look. This is
19 Plaintiff's Exhibit No. 111.

20 A Okay. It is not on the screen.

21 Q It's coming. So Ms. DiNunzio says that in this younger
22 peer's case, that she were was concerned with his leadership,
23 right?

24 A That's what it says in the case.

25 Q That he wasn't meeting job expectations, right?

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1 A Correct. I'm just trying to look at what the outcome of
2 this is. So if you can -- can you go backwards and scroll up
3 for a minute?

4 Q Yes.

5 A Can you go to the previous screen?

6 Q The first page?

7 A Yes, please.

8 Q Yes. In fact, Mr. Maratas, he successfully completed the
9 plan?

10 A What I'm looking at here is I'm trying to see where it
11 actually says that he was placed on a performance improvement
12 plan. I'm not seeing it. Can you scroll to the next page?

13 Q Certainly.

14 A Can you scroll down a little bit?

15 Q By the way, under "case assignments," is that your name
16 there?

17 A Yes. But I would not have been added at the time that had
18 taken place. So that would be something that Karen would have
19 added.

20 Q On May 3rd?

21 A Yes.

22 Q All right.

23 A So according to this, because you keep referring that
24 Andrew was placed on an performance improvement plan, the
25 results of this says it was coaching and informal guidance.

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1 Q So you don't know whether he was placed on a performance
2 improvement plan?

3 A This says coaching and informal guidance.

4 Q Let's look at the email that Stephani DiNunzio sends you.
5 This is Plaintiff's Exhibit No. 73.

6 This is on May 20th, scrolling down to "a member of
7 my team who is younger than Suzanne was placed on a plan in
8 2018." What does that mean? What does "placed on a plan"
9 mean?

10 A So we have -- actually, I can explain that. We have
11 informal coaching plans, and then we also have performance
12 improvement plans.

13 Q Did you ask Ms. DiNunzio which one it was?

14 A Actually if I was attached to the case, based on -- again,
15 we are going back two years -- the coaching would have told me
16 that that was an informal plan. That wasn't a performance
17 improvement plan.

18 Q Did you ask Ms. DiNunzio anything about the circumstances
19 surrounding the decision that she made to place a younger
20 member of her team on a plan in 2018?

21 A I don't recall.

22 Q You never talked to Mr. Maratas, right?

23 A Actually, as I'm looking at this a little bit clearer, may
24 I restate what I just said, please? So during that time frame
25 that you're referring to right here -- again, I would have

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1 looked at everybody that was on Suzanne's team and that based
2 on the email that she sent to me -- to your point of now --
3 yes, I probably would have asked her what was the plan that he
4 was on, and she probably did tell me. Again, I'm recalling.
5 This is going on two years ago. So I would assume that I would
6 have mentioned to her or asked her what the plan was, and so
7 she probably would have told me that it was informal. So it
8 wasn't a performance improvement plan. It was informal
9 coaching.

10 Q The reason you asked her about it, this raised some
11 concern for you, because she is saying she placed one of her
12 younger employees on a plan, right?

13 A I see that you are emphasizing the word "younger," and I
14 think the intent -- and again, I should not speak on behalf of
15 Stephani. You can ask her the same question. I think the
16 intent of what Stephani was trying to say is that it is not
17 about age. "If a person is not performing, then regardless of
18 the age, I'm going to hold all of my team accountable." I
19 believe that was the intent of what she was trying to say
20 there.

21 Q That "I hold everybody accountable and I use the same
22 standard," right?

23 A Yes.

24 Q And yet she doesn't recommend placing Suzanne Ivie on a
25 performance improvement plan, right?

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1 A May I elaborate?

2 Q Just a yes-or-no answer, please.

3 A The answer is, no, there was not a consideration, but
4 there was a reason for that.

5 Q Now, you and Matt Gray meet with Suzanne on June 6th,
6 right?

7 A Yes.

8 Q You tell Suzanne that AstraZeneca is firing her, right?

9 A No, I don't deliver that message. That message was not
10 delivered by me. That message was delivered by Matt Gray.

11 Q Matt Gray said that AstraZeneca was firing her, right?

12 A He didn't use those words, but I understand that the
13 employment relationship had severed and that she was no longer
14 employed by AstraZeneca, yes. So it wasn't those words. But
15 was a termination called? Yes.

16 Q Now, you and Matt Gray offered to pay her for a mutual
17 consent release, right?

18 A So the way that is worded just now -- can you restate your
19 question?

20 Q You and Matt Gray offered to pay her in exchange for a
21 mutual consent release?

22 A I wouldn't word it -- I wouldn't characterize it that way,
23 the way that you're characterizing it. So I would have to say
24 no to that, but then I can explain what it is that we did.

25 Q You offered to pay her money, correct, if she signed a

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1 document?

2 A That's not what was said to her on that call, no.

3 Q You told her that you were offering her a mutual consent
4 package, right?

5 A Correct. And that was reintroduced to her because she had
6 asked for one earlier.

7 Q And the mutual consent package includes a release of
8 claims, right?

9 A It does include that.

10 Q Where the employee is releasing AstraZeneca from any legal
11 claims that it has against AstraZeneca, right?

12 A That is part of the mutual consent, yes.

13 Q And AstraZeneca generally offers mutual consent releases
14 only where the employee is fired for performance reasons,
15 right?

16 A That is correct, yes.

17 Q Now, I want to take you to the meeting on June 6th.

18 A Okay.

19 Q This is where Matt Gray fires her or the relationship was
20 severed.

21 So during the meeting you told Suzanne that her
22 recent allegations about age discrimination and off-label
23 marketing were unsubstantiated, right?

24 A I mentioned nothing about off-label marketing, because
25 that was not part of her allegation.

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1 Q You mentioned the fact that age discrimination was
2 unsubstantiated?

3 A That is correct.

4 Q Now, you told Suzanne that you did have an opportunity to
5 talk to DiNunzio, right?

6 A That is correct.

7 Q DiNunzio admitted to giving Suzanne the "Benatar"
8 nickname?

9 A That is correct.

10 Q Because Suzanne played the piano in high school?

11 A That is correct. Amongst other things, yes.

12 Q You told Suzanne that the "Benatar" nickname was not
13 considered harassment or a complaint, right?

14 A I don't know that I used those words, but I understand
15 where you are going with that.

16 Q Well, you told Suzanne that the "Benatar" nickname was not
17 considered harassment, right?

18 A No, I did not say that the "Benatar" nickname was not
19 considered harassment. I don't believe that that was the words
20 that I used.

21 Q Well, you know who Pat Benatar is, right?

22 A I do. I believe she was a rocker in the '80s known for
23 the song *Hit Me With Your Best Shot*. I wasn't a follower of
24 Pat Benatar, but that's what I remember of Pat Benatar.

25 Q Well, she is almost 70 right now?

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1 A I don't know what Pat Benatar's age is, to be honest with
2 you. I did not follow Pat Benatar.

3 Q But she was a rocker in the '70s and '80s?

4 A She was a rocker -- again, for me, in the '80s, from what
5 I can recall.

6 Q You told Suzanne that AstraZeneca is "at an impasse" with
7 her, right?

8 A I might have used those words.

9 Q "But there is no pathway forward"?

10 A The reason why I'm pausing is because I'm trying to replay
11 back in my mind if those are the words I used. If it wasn't
12 those exact words, it may have been something to that effect.

13 Q And that she was being fired?

14 A Again, I was not the person who delivered that message. I
15 want to be very, very clear that the message, in terms of her
16 being terminated, was done by Matt Gray. My role in that
17 conversation was to talk about the outcome of the investigation
18 and if Suzanne had any questions that she had from an HR
19 perspective that I could answer for her. I did not deliver the
20 termination message. I want to make sure that people
21 understand that.

22 Q Well, Suzanne told you that she felt like she worked
23 longer hours to get all of her work done since she came back
24 from leave, right?

25 A I'm not saying that she didn't say that, because she may

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1 have. I am just not recalling it. She may have said that to
2 me.

3 Q But you considered the matter closed, you told her, right?

4 A Was that part of the June 6th conversation? Is that what
5 we are referring to in terms of her saying that she worked
6 longer hours in that conversation?

7 Q Yes. And you said you considered the matter closed; her
8 allegations were unsubstantiated?

9 A May I --

10 Q Did you say that you considered the matter closed?

11 A I think that what I would have said to her is, based on
12 what we were able to find in terms of evidence, and so if
13 Suzanne said she worked longer hours, there was no
14 demonstration of work that she would have performed, and there
15 was nothing that we saw where she was out in the field coaching
16 her reps where she had any leadership presence, where she was
17 doing business plans and being in the territory and being
18 effective, because at that time her team was not doing well at
19 all. Part of the reason why they were not doing well was
20 because they weren't being coached. There wasn't any guidance
21 that was given to them. So those were the things that would
22 have been discussed in that call on June 6th.

23 Q Now, you mentioned before that you had reviewed two years
24 of her performance, right?

25 A Yes.

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1 Q And that was before AstraZeneca fired her, right?

2 A Yes.

3 Q You knew that Suzanne Ivie had achieved back-to-back
4 Circles (sic.) of Excellence in 2016 and 2017, right?

5 A I wouldn't know about 2016, because, again, I wasn't
6 supporting respiratory, but I do know that she received a five
7 in her performance rating in 2017 and that she received a two
8 in 2018, and the two is considered underperforming.

9 Q In 2017, she received a Circles of Excellence, right?

10 A Again, I wasn't supporting her. So what I looked at was
11 the performance reviews, and the performance reviews showed
12 that she was a five.

13 Q Well, you knew in 2017 that Suzanne's district was No. 2
14 nationally, right?

15 A I don't know that I would know that.

16 Q So you carefully reviewed her file, and you are telling
17 all of us in this courtroom that you didn't know that?

18 A So, again, as I said, there is an electronic file, in
19 terms of what we use as far as Workday. I don't know that
20 there is anything in Workday that would tell us about her
21 winning a Circle of Excellence.

22 Q You didn't ask her that, did you?

23 A No.

24 Q You knew that in 2017, before Suzanne had raised any
25 concerns about Stephani DiNunzio, that DiNunzio had

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1 congratulated her on an exceptional performance?

2 A No, I didn't know that.

3 Q Because you didn't ask her that, right?

4 A So I probably would ask the question as to why that
5 particular question would come up. I think if I would have
6 known that, Suzanne would have shared that information with me.

7 Q DiNunzio said on the 2017 performance evaluation,
8 "Suzanne's passion for coaching and advocacy for her team were
9 evident."

10 Did you know that?

11 A If it was written in the performance review, I would have
12 reviewed that.

13 Q Let's go back to the meeting that you had with Suzanne on
14 the 6th. Suzanne asked you directly, "Why am I not being given
15 a chance to improve through a PIP or some other type of
16 performance coaching," right?

17 A She may have asked that question. May I have the
18 opportunity to elaborate?

19 Q In just a minute.

20 A Okay.

21 Q You knew that Suzanne had worked for AstraZeneca for 19
22 years, right?

23 A Yes.

24 Q You knew that Suzanne considered her co-workers an
25 extension of her family, right?

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1 A I don't know that I would have known that.

2 Q Because you didn't ask any of the co-workers, right?

3 A Again, Suzanne provided no witnesses for me to talk to.

4 Q And you didn't talk to any of her co-workers, right?

5 A I did not speak to her co-workers because the issues that
6 she was having, as it relates to Stephani, did not extend to
7 the people that she was -- that was supporting her. So there
8 was -- again, she would have told me -- if there were people
9 that I needed to reach out to, I absolutely would have reached
10 out to those people.

11 Q She told you that when someone else would call her
12 "Suzanne" on a telephone call, that DiNunzio would correct that
13 person and say, "Call her 'Benatar,'" and that humiliated her,
14 right?

15 A That was in an email that she sent to me.

16 Q And that other DSMs, other peers, began doing that too,
17 calling her "Benatar," right?

18 A Again, that was in the email that she sent to me.

19 Q But you didn't talk to any of her co-workers, right?

20 A No.

21 Q You knew that Suzanne had never raised concerns with HR or
22 management until working with Stephani DiNunzio, right?

23 A No, I did not know that, because, again, I just took over
24 that client group. So I didn't know whether she raised any
25 concerns about another leader. I wouldn't have knowledge of

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1 that.

2 Q You're aware that no one had raised concerns about
3 Suzanne's performance other than DiNunzio, right?

4 A I would not have knowledge of that either as well,
5 because, again, I wasn't supporting that client group. I don't
6 know whether or not there were reps that had issues with
7 Suzanne's leadership or not.

8 Q Because you never talked to any witnesses, right?

9 A Again, the investigation was around age discrimination and
10 feeling as though she was retaliated because she was not in a
11 group photo. I'm not sure, in terms of what you're asking me,
12 how that relates to the allegations that she brought forward
13 for me to investigate.

14 Q You didn't talk to any witnesses, right?

15 A I did not talk to any witnesses because Suzanne did not
16 mention any witnesses, and she said there was no witnesses for
17 me to talk to when I asked the question is there anyone that I
18 can reach out to that could substantiate or validate her
19 allegation?

20 Q And if Suzanne says that in fact she did tell you that
21 there were other DSMs that were calling her "Benatar," at the
22 urging of Stephani DiNunzio, that would be the truth, wouldn't
23 it?

24 A Yes. Again, Stephani did not deny that she nicknamed
25 Suzanne "Benatar." So in terms of me validating whether or not

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1 Stephani had called Suzanne "Benatar," that was validated by
2 Stephani's own admission that she used the word "Benatar." She
3 had a nickname. She had nicknames for everyone on her team.

4 Q Well -- but that wasn't appropriate, right?

5 A Here is what I said as it relates to nicknames.

6 Q You told her to stop calling the subordinates nicknames,
7 right?

8 A I did, yes.

9 Q Now, you determined that you had fully investigated
10 Suzanne's concern, right?

11 A Yes.

12 Q The decision was final?

13 A The decision -- well, when you say "the decision," the
14 decision to terminate?

15 Q The decision on her allegations about what happened to
16 her; that she felt she was being treated differently and
17 retaliated against, that decision -- you unsubstantiated her
18 allegations, and the decision was final?

19 A Yes.

20 Q So, Ms. Ceaser, thinking back to the investigation and
21 decision to fire Suzanne, if you had to do anything over, would
22 you have done anything differently?

23 A No. I don't believe I would, no.

24 MR. OSWALD: Thank you, Ms. Ceaser.

25 THE COURT: Thank you. Cross, please.

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1 MS. RIECHERT: Is this a good time for a
2 mid-afternoon break? We came back at one o'clock.

3 THE COURT: How long is your cross?

4 MS. RIECHERT: An hour, maybe less.

5 THE COURT: We will go ahead and take our afternoon
6 break. 15 minutes, please. So be back in the box at 5 till.

7 Thank you.

8 MR. OSWALD: Will you remind Ms. Ceaser the rule on
9 witnesses. I don't want her to be put in an uncomfortable
10 position.

11 THE COURT: Please don't discuss your testimony or
12 speak with anybody. You are under oath. You will remain under
13 oath. I'll remind you that you're under oath when the jury
14 comes back in so they know you continue to be under oath.

15 (Recess.)

16 (Open court; jury present:)

17 THE COURT: Thank you. Good afternoon.

18 Ms. Ceaser, I want to remind you that you are still
19 under oath.

20 Thank you.

21 Defense may go ahead and cross, please.

22 CROSS-EXAMINATION

23 BY MS. RIECHERT:

24 Q Ms. Ceaser, Mr. Oswald asked you at the beginning of your
25 examination whether it would be proper to tell an employee not

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1 to go to HR for concerns of discrimination. Did you ever tell
2 Ms. Ivie or any other employee that it was not proper for them
3 to go to HR with concerns of discrimination or retaliation?

4 A No, I did not.

5 Q Mr. Oswald also asked you if it was proper to say that
6 AstraZeneca was there to protect AstraZeneca and not the
7 employees. Did you ever say to Ms. Ivie or anyone else that
8 AstraZeneca was there to protect AstraZeneca and not the
9 employees?

10 A No, I did not.

11 Q Mr. Oswald also asked you if it was proper to say, "Forget
12 the past and move on," and you asked to be able to elaborate on
13 that. He said he would give you an opportunity to do so, but I
14 don't think you got that opportunity. Would you like to
15 elaborate now on this issue of whether you would say, "Forget
16 the past and move on"?

17 A Yes. Thank you very much. So in regards to that
18 statement, "Forget the past and move on," I don't believe I
19 would have said those words. Now, what I would have said to
20 her is the fact that when I took over the case, the allegations
21 that had been made against Stephani had been concluded and were
22 unsubstantiated. My attempt was, since those allegations had
23 been closed out, that we would find a way for both Suzanne and
24 Stephani to be able to come together and to be able to mediate
25 a healthy dialogue and facilitation in terms of getting things

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1 back on track, and that was the goal that I was trying to do at
2 that time as an employee relations partner.

3 Q Mr. Oswald also asked you whether you told Ms. DiNunzio to
4 discontinue using nicknames. That was another thing that you
5 asked to elaborate on. Can you please elaborate on why you
6 asked Ms. DiNunzio to stop using nicknames?

7 A Yes. So nicknames in and of themselves is not
8 appropriate -- it is not -- it is not appropriate. People use
9 nicknames all the time. But when a person has asked you to
10 discontinue using that, and when I said to Stephani that the
11 allegation that came forward that Suzanne did not want to be
12 called "Benatar," and that I would like for you to discontinue
13 doing that, she absolutely agreed. Then I indicated that I
14 would prefer that she not call anyone by a nickname, only
15 because of the fact that if Suzanne is the only one that is
16 being called by her name, and other people are being called by
17 nicknames, I didn't want her to feel like she was part of an
18 "out" group, so let's just make sure that we all use proper
19 names for everyone.

20 Q Mr. Oswald also asked you whether you refused to have a
21 meeting without Ms. DiNunzio. Did you in fact meet with
22 Ms. Ivie without Ms. DiNunzio?

23 A Absolutely. Yes.

24 Q Now, Mr. Oswald quoted a small portion of your deposition
25 in which he was asking you what you considered in reaching the

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1 recommendation regarding termination?

2 A Yes.

3 Q And you said, "Actually, I had said at another point in my
4 deposition what you considered." I would like to read from
5 that now. It is page 98, line 15 to page 100, line 9.

6 "Now let's take a look at Exhibit 10," which I
7 believe is up on the screen.

8 "Ms. Ceaser, do you recall answering some questions
9 about this document earlier?

10 "ANSWER: Yes.

11 "QUESTION: And if we could scroll down to the middle
12 of the page, this is an email from Stephani DiNunzio to you,
13 correct?

14 "ANSWER: Correct. Yes.

15 "QUESTION: And does this include some information
16 that you considered when you were making decisions and
17 recommendations in May and June of 2019?

18 "ANSWER: Yes.

19 "QUESTION: And if you look at the bullet points in
20 the middle of the page, it's Stephani there reporting some
21 facts from her standpoint regarding Suzanne's work since
22 April 16th?

23 "ANSWER: Yes.

24 "QUESTION: And do you see the second bullet point
25 that says 'hasn't completed any FCR'?

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1 "ANSWER: Yes.

2 "QUESTION: FCR refers to field coaching report.

3 "ANSWER: Correct.

4 "QUESTION: And the third bullet says 'has only
5 followed up on one field ride with an email.'

6 "Then there is a sub-bullet point that says, 'I asked
7 her to follow up each field ride with an email until she gained
8 access to the coaching app.'

9 "Do you see that?

10 "ANSWER: Yes.

11 "QUESTION: Does that refresh your recollection that
12 you were aware, at least as of June 5th, that although Ms. Ivie
13 had access to the coaching app., that Stephani DiNunzio had
14 asked her to follow up field rides with an email?

15 "ANSWER: That is correct, yes.

16 "QUESTION: And that is consistent with your
17 understanding at the time?

18 "ANSWER: Yes."

19 Now, there were some other occasions where you asked
20 to be able to elaborate on your answer. One of them related to
21 whether a younger person was put on a PIP. Would you like to
22 elaborate earlier on the answer that you gave earlier on that
23 issue?

24 A Yes. Thank you. So in relation to the question that was
25 asked, in terms of whether or not a younger person was placed

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1 on a PIP, I believe the intent of the email, again, was
2 regardless of age, that if a person is underperforming, there
3 are guidelines that we would use in terms of coaching that
4 individual initially. Then we would go to an informal coaching
5 plan and then progress to a performance improvement plan.

6 So I think the context of what Stephani was saying in
7 the email is that she is consistent in terms of how she is
8 identifying if people are underperforming, how she would
9 address those issues, and this wasn't about an age issue.

10 Q You also said that you wanted to elaborate on why a PIP
11 was not available for Ms. Ivie. Would you like to elaborate on
12 that?

13 A Yes. So Suzanne, based on the information that I
14 received, simply was not working. According to our policies,
15 that's a basic expectation of a job. You have to show up. You
16 have to work. So we wouldn't put a person on a performance
17 improvement plan for not showing up for work. That's a
18 reasonable expectation that they should be showing up for work.
19 So a performance improvement plan is if we have identified
20 maybe some core areas within a performance where they are not
21 performing up to expectation. With that, we would then put a
22 person on a plan so that they would understand: Here is what
23 we have seen in terms of the areas that we need you to take a
24 look at and address, and we'd put together a plan to talk about
25 what the supports that we will put in place, how often we would

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1 meet with the person, and then to check in with them on a
2 regular basis to make sure they are meeting those expectations
3 that we have identified. But again, when somebody is not
4 working, and there is no demonstration of any work that's being
5 performed, that's not something we would put a person on a
6 plan, because according to your policies, that would be a
7 violation of a policy.

8 Q And would that go on the discipline track then?

9 A Yes. That would go on the discipline track.

10 Q One more question you were asked to elaborate on, and you
11 didn't did get the opportunity to do so, was the issue about
12 whether this mutual consent -- what AstraZeneca calls a mutual
13 consent; the rest of us might call a severance agreement -- why
14 that was offered to Ms. Ivie even though she was not terminated
15 for performance. You wanted to elaborate. I'm giving you the
16 opportunity to do so.

17 A Thank you. So the reason why the severance or AKA mutual
18 consent was offered to Suzanne was because she had actually
19 asked for it during the time when she had received the first
20 written warning. Being that she had been an employee for
21 17-plus years, we felt that that was just the right thing to
22 do. Instead of if she was just fired, there would be nothing.
23 There would be no benefit continuation. There would be
24 nothing. So because she had asked for it before, we just
25 decided that we would reintroduce that.

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1 Q I think that's covering all of the areas you were asked to
2 elaborate on. Now let me ask you some questions.

3 A Okay.

4 Q Where do you live?

5 A I live in Newark, Delaware.

6 Q Do you have a college degree?

7 A Yes.

8 Q What degrees do you have?

9 A I have a bachelor of arts in psychology, and I'm currently
10 in a master's program.

11 Q Tell us about the master's program.

12 A It is a master's program for organization, leadership, and
13 development. So basically what that program is is to help
14 motivate, inspire, and coach employees to be the best version
15 of themselves and also to develop them. So depending on what
16 their career paths are, how do we get them from point A to B so
17 they can continue to develop.

18 Q And are you -- do you have any other post-college
19 education?

20 A I do. I also received a coaching certification through
21 the International Coaching Federation. I received that last
22 year in July, and then I also have a certification, a
23 professional human resources certification through the HR
24 Certification Institute. That's called HRCI. And so I hold a
25 number of certifications.

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1 Q How long have you worked at AstraZeneca?

2 A A little over three years.

3 Q How long have you worked in human resources or employee
4 relations?

5 A So in human resources, I would say close to 30. Specific
6 to employee relations, probably over 20.

7 Q What was your first involvement with Suzanne Ivie?

8 A I believe it was when she sent an email to me, and I
9 believe that date was either May 7th or 8th.

10 Q Do you recall taking over from Karen Belknap when she
11 retired?

12 A Yes. So let me go back, if I can. So my first
13 interaction -- I apologize -- was when Karen, myself, Amy
14 Welch, and Suzanne was on a call. It was during -- I believe
15 it was May 3rd, when Karen was retiring. She went through all
16 the allegations with Suzanne and talked about the conclusion of
17 those allegations. She mentioned during the call that if there
18 were any new HR concerns that she had, that she could
19 absolutely reach out to me. So she indicated that she was
20 retiring and that I would be the one that would be taking over
21 that client area.

22 Q We saw sections from Ms. Amy Welch's deposition earlier.

23 Could you tell us who Amy Welch is.

24 A Amy Welch is our human resources business partner, and she
25 supported respiratory at that time.

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1 Q So after Ms. Belknap told Ms. Ivie that she could raise
2 additional concerns if she had any with you, did Ms. Ivie,
3 in fact, raise any additional concerns with you?

4 A Yes, she did.

5 Q And did you meet with her to go over those concerns?

6 A Yes. I called her on the phone, or I reached out to her
7 to ask her when she would be available. I set up a calendar
8 invite for us to talk.

9 Q Was Ms. DiNunzio on that call that you had with her?

10 A No. No, she was not.

11 Q Now, the concerns that she was raising, were they new
12 concerns or previously raised concerns or both?

13 A Both.

14 Q Did you tell her that you would not be reinvestigating the
15 concerns that had already been investigated by Ms. Belknap?

16 A Yes, I did.

17 Q Did you tell her that you would be investigating the new
18 claims?

19 A Yes, I did.

20 Q And did you then conduct an investigation into the new
21 concerns?

22 A Yes, I did.

23 Q And I think Mr. Oswald asked you this: Have you been
24 trained on how to conduct investigations?

25 A Yes, I have.

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1 Q How many investigations would you say have you conducted
2 during your career?

3 A Numerous. I don't have a count on them, but I would
4 certainly say that there are probably well over a hundred
5 investigations that I have conducted in my 30-year career.

6 Q Were you limited in any way by AstraZeneca as to how you
7 could conduct your investigation?

8 A No, not at all.

9 Q Were you limited in the witnesses that you could speak
10 with?

11 A No, not at all.

12 Q Were you limited in the documents that you could review?

13 A No, not at all.

14 Q During the course of your investigations into the new
15 concerns that she raised, did you receive a copy of an email
16 that Ms. Ivie had sent to Mr. Pomponi and Ms. Teresa Grey?

17 A Yes.

18 Q Did you consider this email in connection with your
19 investigation into Ms. Ivie's concerns?

20 A Yes, I did.

21 Q Now, you indicated in your testimony from Mr. Oswald that
22 there were three concerns, and you said two related to age
23 discrimination. I think one was the "Benatar" comment; the
24 other one was the "wrinkles" comment?

25 A Correct.

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1 Q You also said there was a third complaint that Ms. Ivie
2 raised that didn't relate to age discrimination. Can you tell
3 us about that complaint.

4 A Yes. So Suzanne had stated that she felt that Stephani
5 had intentionally excluded her from a group photo.

6 Q Did you investigate that concern?

7 A Yes, I did.

8 Q Did you talk to Ms. Ivie in connection with your
9 investigation?

10 A Yes, I did.

11 Q Did you talk with Ms. DiNunzio in connection with the
12 investigation?

13 A Yes, I did.

14 Q What did Ms. DiNunzio tell you?

15 A The reason why Suzanne was not in the photo was because
16 Suzanne was out on a leave of absence during that time frame.
17 We don't Photoshop people's images into a photo. Therefore,
18 that was the reason she was not included.

19 Q Did you find it was inappropriate to not include her in
20 the photo?

21 A No. That wasn't inappropriate. She wasn't there.

22 Q Let's talk about the two age discrimination comments.

23 First of all, the one about the "wrinkles" -- what I'm calling
24 the "wrinkles" comment. Did you ask Ms. Ivie if she had any
25 witnesses with respect to that complaint?

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1 A Yes, I did.

2 Q And did she have any?

3 A No, she did not.

4 Q Did you ask her if she had any documents with respect to
5 that complaint?

6 A Yes, I did.

7 Q Did she have any?

8 A No, she did not.

9 Q With respect to the "Benatar" name, did you ask her if she
10 had any documents with respect to that?

11 A Yes, I did.

12 Q And did she send you those documents?

13 A Yes, she did.

14 Q Was that a photo of the water bottle?

15 A Yes, it was. Then I think it was also a picture of her
16 maybe in high school. I think she was wearing like a letter
17 jacket and shades and curly hair, I believe.

18 Q And did you interview Ms. DiNunzio in connection with your
19 investigation into the "Benatar" nickname?

20 A Yes, I did.

21 Q What did Ms. DiNunzio tell you?

22 A Ms. DiNunzio certainly did not deny the fact that she
23 called Suzanne "Benatar." She provided me with an email that
24 indicated how the nickname came to be; that it was a part of
25 team-building. She was new, I think, to the team at the time,

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1 and she thought a fun way of getting to know everyone was to
2 have them send old pictures -- not old pictures -- but pictures
3 of when they were in high school. Then there were
4 conversations with the group in terms of how these nicknames
5 would be formed.

6 So I don't know necessarily that Stephani assigned
7 that nickname to her, but the nickname came about, and I think
8 the nickname came about because people thought that the photo
9 was provided, that there may have been some look like
10 Pat Benatar from the '80s because of the big hair and also
11 because Suzanne was a musician during that time period. So I
12 believe that was part of the reason how that all came to be.

13 Q Did you ask Ms. Ivie if she ever said anything to
14 Ms. DiNunzio that she was uncomfortable with the nickname?

15 A Yes, I did.

16 Q What was the response?

17 A So she sent an email to me indicating that she had raised
18 that issue to Stephani and that Stephani had continued to call
19 her "Benatar." I had asked her, you know, "At what point did
20 you raise this," because the nickname actually came about in
21 2018. The issue wasn't raised to me until May of 2019. So
22 there was a long period of time. So the question was, you
23 know, had you gone to your manager? Had you spoke to her
24 regarding that? And so that was the email that she generated,
25 indicating that she had asked Stephani to discontinue using the

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1 nickname.

2 Q Did you ask her why she had waited so long to raise this
3 concern from the time the nickname started until May of 2019
4 when you were looking into this?

5 A Yes, I did.

6 Q What was her response?

7 A From what I can recall is that she said, you know, I
8 didn't think about that when I was raising all of these other
9 complaints or other allegations, and so that was when that came
10 to me, you know, in terms of another factor that she was
11 indicating that here is another example of age discrimination
12 in her perspective.

13 Q Did you ask Ms. Ivie when Ms. DiNunzio had made this
14 comment about the "wrinkles" or the "lack of wrinkles"?

15 A I did, yes.

16 Q And when did you -- what was her answer?

17 A She was non-descript, if I remember correctly, in terms
18 of -- like I would ask her when the comment was made. Where
19 the comment was made. What place? What was the conversation
20 that preceded in terms of what led up to that particular
comment? Was there anyone else around? Had that comment been
22 made since?

23 So there would have been a number of things that I
24 would have asked her as it related to that particular comment
25 that was made.

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1 Q Did you speak to Ms. DiNunzio about the "wrinkles" or
2 "lack of wrinkles" comment that Ms. Ivie told you about?

3 A Yes, I did.

4 Q What did Ms. DiNunzio tell you?

5 A What Ms. DiNunzio indicated is that she said that Suzanne
6 is a beautiful woman, and she also indicated that the only
7 thing I would have made any comments was about her hair; that
8 she had really nice hair; and that she had a great complexion.
9 So that's what was told to me.

10 Q Did you ask Ms. DiNunzio if Ms. Ivie ever said she was
11 unhappy with the nickname "Benatar"?

12 A Yes, I did.

13 Q What did she say?

14 A She said at no time did Suzanne ever say to her that she
15 was uncomfortable being called "Benatar."

16 Q So we're looking at Plaintiff's Exhibit No. 73 in front of
17 you. Was this an email that Ms. DiNunzio sent to you and a
18 copy to Amy Welch?

19 A Yes.

20 Q After you interviewed Ms. DiNunzio, did she send you this
21 email?

22 A Yes. Yes, she did.

23 Q And as we look through it -- I will give the jurors time
24 to look at it -- is she explaining the background of the
25 nickname here? The bottom of the first page, it says,

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1 "Mike Hartman was aware of the nicknames." Who was
2 Mike Hartman?

3 A I believe at the time he was over or in transition of
4 being the head of respiratory.

5 Q Then it also mentions Matt. Do you know who that is?

6 A Yes. That would be Matt Gray. So I think at the time the
7 nicknames were created that Mike Hartman was the executive
8 business director over respiratory. Then when he transitioned
9 into another area, then Matt Gray became the executive business
10 director.

11 Q That would mean they were Stephani DiNunzio's bosses?

12 A Yes.

13 Q I'll let the jury read through this email.

14 Now, as part of your investigation, did you look at
15 the ages of the people on Ms. DiNunzio's team?

16 A Yes, I did.

17 Q What did you discover?

18 A I discovered that all but one person was over the age of
19 40 and many of the individuals that were worked with Stephani
20 were in their 50s.

21 Q Did you look at the documents that Ms. Ivie and
22 Ms. DiNunzio sent you?

23 A Yes.

24 Q Did you consider you did a thorough investigation?

25 A Yes.

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1 Q Was there anything else you wanted to do but you did not
2 do?

3 A No.

4 Q Did you reach a conclusion as a result of your
5 investigation of Ms. Ivie's age discrimination claim?

6 A Yes.

7 Q With respect to the "wrinkles" or "lack of wrinkles"
8 comment, what was your conclusion?

9 A My conclusion was that it was unsubstantiated as it
10 related to age discrimination.

11 Q And what was the basis for that decision?

12 A The basis for that decision was that there was just a lack
13 of evidence that was provided, and the comment as it related to
14 the nickname "Benatar," I was not able to conclude that that
15 had anything to do with her age.

16 Then as it related to the "wrinkles" comment, based
17 on what Suzanne had indicated, that she felt that the comment
18 Stephani made was more of a backhanded comment, something to
19 the effect of, "Wow, you look good, and you hardly have any
20 wrinkles." I did not see how that tied into anything that
21 Stephani was doing that was discriminatory in any way. So she
22 had not taken any type of discriminatory action, especially not
23 anything due to her age, based on what I looked at.

24 Had other people been disciplined for performance
25 issues? Yes, they had, and it didn't matter what their age

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1 was. Andrew happened to be younger, but he was coached as it
2 related to some leadership capabilities that he was going
3 through. So I did look at that.

4 I also just wanted to make sure that -- if I heard
5 your comment correctly, I also looked at in terms of
6 understanding whether or not it was substantiated or
7 unsubstantiated, the issue that related to the photo, because
8 she was not present at the time. She was on leave. So there
9 was no intention of trying to purposelessly delete her out of
10 the group photo. She just simply wasn't there at the time. So
11 that was absolutely unsubstantiated.

12 Q Did you give the results of this investigation to
13 Ms. Ivie?

14 A I did, yes.

15 Q I'm going to totally switch topics here.

16 A Okay.

17 Q We're going to talk about the concerns that Ms. DiNunzio
18 had about Ms. Ivie. When you took over from Ms. Belknap in May
19 of 2019, did you learn that there were problems between
20 Ms. DiNunzio and Ms. Ivie?

21 A Yes.

22 Q Did you meet with Ms. DiNunzio to discuss these problems?

23 A Yes.

24 Q Do you remember if anybody else was present for that
25 meeting?

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1 A I believe Matt Gray was present for that meeting, and Amy
2 Welch may have also been present for that meeting.

3 Q Do you remember when that meeting was?

4 A It was probably the week after Karen had retired. So
5 Karen retired on May 3rd. It was that following week at some
6 point during that week that I had a conversation.

7 Q What was the purpose of that meeting?

8 A The purpose of that meeting was to talk about the fact
9 there had been a conclusion to the allegations that were made
10 and that both Matt and Stephani wanted to talk about how they
11 could move forward with Suzanne. "Moving forward" meant how do
12 we get the relationship back on track in terms of building
13 trust and being able to move in a positive direction and what
14 does that look like and what support can HR provide as it
15 related to that.

16 There were also still some concerns that Stephani had
17 in terms that she wasn't seeing any work being performed, and
18 so we talked about that as well. But the goal of that meeting
19 that I had with Matt and Stephani at that time was to really
20 talk about how do we get everybody back on track, and is there
21 a way we can bring both Suzanne and Stephani together to
22 mediate a very healthy conversation so that we can talk about
23 things upfront, honestly, and in a safe space, because I'm not
24 here to take a side. I am a neutral party. Matt, as the
25 executive business leader, he would be there representing both

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1 Suzanne and Stephani. In this end, it would have given Suzanne
2 the opportunity to talk about whatever concerns that she had
3 that Stephani's boss could hear as well.

4 I made numerous attempts at trying to do that. There
5 was at least three or four attempts that were made to try to
6 get the two to come together to have a meeting to talk about:
7 How do we move forward? What are some of the things getting in
8 the way? How do we address the things getting in the way? So
9 that was my purpose of that particular meeting I had with them.

10 Q Did the meeting take place?

11 A Can you clarify what meeting you are referring to?

12 Q The one where you are trying to get between Ms. Ivie and
13 Ms. DiNunzio to move forward.

14 A No, that didn't take place.

15 Q Why not?

16 A Because Ms. Ivie was unwilling to meet.

17 Q Did she say why she was unwilling to meet?

18 A She did. It was based on a lack of trust. She did not
19 trust Stephani. And so one of the things that I said to her is
20 that this mediation can at least help build a foundation of
21 rebuilding the trust again. I had an understanding that the
22 trust was broken, but let's see how we can start, even if it is
23 baby steps, to try to rebuild that trust back.

24 Q I'm going to turn to Exhibit No. 57, an email from
25 Ms. DiNunzio to Matt Gray and to you, about the lack of

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1 engagement and the cancellation of mediation. Is this an email
2 that Ms. DiNunzio sent to you?

3 A Yes.

4 Q Let's look at those three bullet points that you see
5 there. Could you read those to us?

6 A It says, "I have had one one-to-one with Suzanne since she
7 returned from STD." Do I need to explain what STD is?

8 Q Please do.

9 A Short-term disability.

10 Q "On 4-16."

11 The second bullet says, "Since returning from leave,
12 Suzanne hasn't completed any field coaching forms. She
13 received a written warning due to coaching activity."

14 Third bullet point says, "Without consistent
15 communication, I'm uncertain of how Suzanne is leading her team
16 or diagnosing and planning for her business."

17 Q Now, did you meet with Ms. DiNunzio and Matt Gray to
18 discuss what to do about the problems between Ms. Ivie and
19 Ms. DiNunzio?

20 A Yes.

21 Q And was that -- when was that meeting?

22 A Again, I believe that was the week after Karen had
23 retired.

24 Q And then did you have a second meeting with them at a
25 later point?

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1 A Yes.

2 Q When was that?

3 A That was probably towards the end of May.

4 Q I guess we have gone through that one.

5 A Okay.

6 Q Let's talk about the termination of Ms. Ivie's employment.

7 Were you involved in discussions regarding the termination of
8 Ms. Ivie's employment?

9 A Yes, I was.

10 Q What was your role?

11 A Just to look at all of the facts that was presented to me
12 and to make a recommendation.

13 Q Did you do that?

14 A Yes, I did.

15 Q I think you talked earlier about what you did to do that.
16 You look at the warning; you look at the review for the last
17 few years.

18 Did you conclude that there was sufficient grounds to
19 support the termination?

20 A Yes, I did.

21 Q What was your recommendation?

22 A The recommendation was to terminate.

23 Q Why was that?

24 A Because there was no work that was being performed that we
25 could demonstrate -- that she could demonstrate. There was a

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1 lack of leadership. So Suzanne was a leader, and her team
2 wasn't being led. Business was suffering at the time. They
3 were low performing in the territory. There was no clear
4 indication whether or not Suzanne was up on any changes that
5 was happening in the territory, and so we concluded that we
6 could not see that she had any kind of leadership presence;
7 that she was acting in a way a leader. We could not see any
8 demonstration of coaching that was supposed to happen with her
9 employees. So based on all of those things, that's how I came
10 to the recommendation that I did.

11 Q When you say "no work," do you literally mean no work?

12 A There was no demonstration of work that we saw.

13 Q If Stephani DiNunzio was Ms. Ivie's manager, why wasn't
14 she the decision-maker on the termination?

15 A Because Suzanne had raised complaints against Stephani, we
16 decided that that would not be the right thing to do.

17 Q In recommending termination, did you consider in any way
18 the fact that Ms. Ivie had made complaints against
19 Ms. DiNunzio?

20 A Yes.

21 Q What did you consider?

22 A What I considered was the fact that Suzanne felt that
23 Stephani was retaliating against her for making complaints
24 regarding her and that the issues at hand was simply around not
25 performing the basic functions of her job as a district sales

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1 manager.

2 Q So did you conclude that Ms. Ivie was being fired because
3 she had made these complaints?

4 A No. She was not being fired because she made those
5 complaints.

6 Q Have you received training on discrimination, harassment,
7 and retaliation during your employment at AstraZeneca?

8 A Yes.

9 Q How often do you get it?

10 A So Delaware actually has a law where we have to train our
11 employees. Actually we were part of training the employees in
12 headquarters, but we also had online training as well. So
13 every year there is some content that is pushed out as it
14 relates to harassment and discrimination.

15 Q Is that only for employees in Delaware?

16 A No. It is for all employees at AstraZeneca. So different
17 states have different requirements in terms of whether or not
18 they receive live training and how often. But we, as HR
19 professionals and other leaders and such, we have training on a
20 regular basis. And I know for me, I have been trained on that
21 every year.

22 MS. RIECHERT: I have no further questions.

23 THE COURT: Thank you.

24 Redirect.

25 MR. OSWALD: Thank you, Your Honor.

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1 REDIRECT EXAMINATION

2 BY MR. OSWALD:

3 Q Ms. Ceaser, you never asked Suzanne if she wasn't working,
4 right?

5 A Is that a question? It sounded like a statement. I'm
6 sorry. Is it: Did I ever ask Suzanne if she was working?

7 Q You never asked Suzanne about the allegation that she
8 wasn't working, right, that she was performing no work?

9 A So can I -- again, can I elaborate a little bit?

10 Q I would like you to answer my question.

11 A Again, I think it is in part. That's the reason why it is
12 not necessarily a yes or no. So that's why I would like to
13 explain what my answer is, because it is not a clear yes or no.

14 THE COURT: Ma'am, your counsel will help you
15 explain.

16 Thank you.

17 THE WITNESS: All right.

18 BY MR. OSWALD:

19 Q Yes or no?

20 A So the answer to that would be, no, I did not directly ask
21 her if she was not working.

22 Q Let's look at Plaintiff's Exhibit No. 57, if we could.
23 This is the email from Stephani DiNunzio to you on May 13th,
24 right?

25 A Yes.

D. Ceaser - ReD

1 Q And Ms. DiNunzio is making a number of allegations here,
2 right?

3 A Yes.

4 Q You never confronted Suzanne with this email, did you?

5 A No.

6 Q Let's look at Plaintiff's Exhibit No. 67. Give me a
7 minute. I want to show you the right exhibit here. So the
8 email that we looked at before, this was an email that
9 Stephani DiNunzio on the 5th of June had documented each day
10 going back to the first day that Ms. Ivie -- that Suzanne had
11 returned from leave. Do you remember that email that was shown
12 to you on the 5th?

13 A Yes. Will you pull it back up for me?

14 Q I would like to. It is Defendant's 519. I'm happy to do
15 it. I got the rest of it there. So let's look at
16 Defendant's 519.

17 Now, you didn't confront Suzanne with this email
18 either, right?

19 A Can you scroll all the way down for me, please?

20 Q Yes.

21 A No.

22 Q Now, you mentioned a meeting with Stephani DiNunzio and
23 with Matt Gray occurred the first week of May, right, when they
24 raised concerns about Suzanne, right?

25 A Yes.

D. Ceaser - ReD

1 Q And you said that the -- you met with them, because the
2 investigation had concluded, right?

3 A Correct.

4 Q But, in fact, the compliance investigation had not
5 concluded, right?

6 A No. I believe it had concluded. I believe.

7 Q In fact, the compliance report wasn't issued until
8 May 21st, 2019, correct?

9 A Can you bring up that compliance report for me, please?

10 Q Yes. Plaintiff's Exhibit 77. The compliance report
11 wasn't issued until May 21st, 2019, correct?

12 A That's correct. So with the HR component that had the
13 allegations regarding specific things within HR that had been
14 concluded that Karen had spoke to Suzanne about, and so that's
15 the piece in terms of -- that HR piece was concluded.

16 Q But the compliance part of it had not been concluded?

17 A According to this, that would be correct.

18 Q So the issue of whether, for instance, DiNunzio had been
19 engaging in off-labeling marketing or retaliation or
20 discrimination for the complaints relating to off-label
marketing wouldn't be issued for another two weeks, right?

22 A The discrimination had nothing to do with the compliance
23 investigation. That would be specific to off-labeling.

24 Q You're asking Suzanne to work with someone where the
25 investigation has not yet concluded about whether that person

D. Ceaser - ReD

1 has engaged in off-label marketing, right?

2 A Correct.

3 Q You mentioned a communication with Suzanne Ivie on
4 May 8th, 2019, in the cross-examination. Do you remember that
5 communication?

6 A She sent me an email.

7 Q Let's take a look at that, if we could.

8 A Okay.

9 Q Do you remember precisely what happened on the 3rd of May
10 when you and Karen Belknap met with Suzanne Ivie?

11 A So you're using the word "precisely." No. But do I have
12 a general recollection of the conversation? Yes.

13 Q And this is an email where Suzanne Ivie is emailing you
14 and Amy Welch in part?

15 MS. RIECHERT: Which exhibit is this?

16 MR. OSWALD: This is Plaintiff's Exhibit No. 37. It
17 is not published. I'm showing it to her.

18 MS. RIECHERT: That has been excluded in limine.

19 MR. OSWALD: Your Honor, it is not published to the
20 jury. I'm asking the witness about it.

21 THE COURT: Okay. Continue.

22 MR. OSWALD: Thank you.

23 BY MR. OSWALD:

24 Q This is an email that Suzanne Ivie sent you, which was a
25 recap of the conversation on May 3rd, right?

D. Ceaser - ReD

1 A This is what she recalled, yes.

2 Q And she is going through everything that happened on
3 May 3rd?

4 A She is documenting what she recalls from that
5 conversation.

6 Q Okay. And you did not respond to this email, right?

7 A Not in writing, but I called her. I set up a time to have
8 a conversation with her. So to answer your question, yes, it
9 was a response, but it wasn't in writing. But I did get a
10 response.

11 Q As an experienced human resources professional, right,
12 you've heard the phrase, "If it is not in writing, it didn't
13 happen," right?

14 A Oh, I have heard that phrase, yes.

15 Q What that means, as a human resources professional,
16 document, document, document everything that occurs with their
17 interaction with employees, right?

18 A Some things are not -- do not need to be documented. Some
19 things can be a conversation.

20 Q I understand. But you are trained to document your
21 interactions with employees, right?

22 A I'm trained to document, but not every interaction I have
23 with an employee is documented -- every interaction.

24 Q My question to you is different. My question to you is:
25 You are trained to document your interactions with employees,

D. Ceaser - ReD

1 right?

2 MS. RIECHERT: Objection. Asked and answered.

3 THE COURT: Please answer the question. Yes or no?

4 THE WITNESS: Yes.

5 THE COURT: Thank you.

6 BY MR. OSWALD:

7 Q You did not respond to this email, correct?

8 A No, I did not.

9 MR. OSWALD: Your Honor, I move to admit Plaintiff's
10 Exhibit No. 37 into evidence.

11 MS. RIECHERT: Same objection as was raised in the
12 limine.

13 THE COURT: Denied.

14 Thank you.

15 BY MR. OSWALD:

16 Q This was Suzanne Ivie's view of what happened at the
17 meeting on the 3rd, right?

18 A That was her view, yes.

19 Q Okay. Now, your investigation into -- your HR
20 investigations, those are confidential, right?

21 A Yes.

22 Q And you tell employees, "Look, this is a confidential
23 investigation, and I expect you to keep it as such," right?

24 A Yes.

25 Q Let's look at Exhibit No. 72. But before we do,

D. Ceaser - ReD

1 Mr. Pomponi told us this morning that his investigations too
2 are strictly confidential, like HR investigations, and that
3 doesn't surprise you, right?

4 A Correct.

5 Q Let's look at Exhibit No. 73. I think I said 72. I meant
6 73.

7 Okay. Now, the email here from Stephani DiNunzio to
8 you, this is on May 20th of 2019 -- May 21st of 2019.
9 Actually, May 20 of 2019. I want to look at the one above it,
10 if we could. This is an email from Stephani DiNunzio to
11 Matt Gray, right?

12 A Yes.

13 Q She is saying, "I sent this email to Dawn at her request,"
14 right?

15 A I see that.

16 Q And then she says, "Stephani sent an email to compliance
17 last week," right?

18 A It says, "Suzanne sent an email to compliance last week."

19 Q Forgive me. You are absolutely right. It says, "Suzanne
20 sent an email to compliance last week," right?

21 A Yes.

22 Q Now, that's Exhibit 47, and I want to ask you, do you know
23 how Stephani DiNunzio knew that Suzanne had sent an email to
24 compliance on the 16th of May that was supposed to be kept
25 strictly confidential?

D. Ceaser - ReD

1 A I actually don't recall. I think when you are looking at
2 the date May 21st, I would have at that time had a conversation
3 with Stephani, because, again, she was the person being
4 accused. So I would have had some discussion with her about
5 the allegations that Suzanne had raised.

6 Q The ones she had made to compliance on the 16th of May?

7 A The ones that she raised to me that were new
8 investigations were around the two age discrimination
9 complaints and then the complaint where she felt like she was
10 excluded from the group photo.

11 Q This says, "Suzanne sent an email to compliance last
12 week."

13 Do you see that?

14 A I do see that, yes.

15 Q So how did Stephani DiNunzio find out about an email that
16 Suzanne had sent to the compliance department that was supposed
17 to be kept strictly confidential the last week?

18 MS. RIECHERT: Objection. Lacks foundation.

19 THE COURT: Response.

20 BY MR. OSWALD:

21 Q Do you know?

22 THE COURT: That's fine.

23 THE WITNESS: I don't recall honestly. I don't
24 remember. Can I see the rest of the email, because maybe that
25 might trigger my memory, because you're only showing me the top

D. Ceaser - ReD

1 half. So if I could see the rest of it, that might help me
2 with my memory.

3 Okay. Is this the full email?

4 BY MR. OSWALD:

5 Q No.

6 A Okay. Do you mind scrolling back up for me, please?

7 Q Yes.

8 A Continue to scroll back up for me. Continue. Okay.

9 Again, there is nothing in the email that's
10 triggering my memory to say whether or not this was something
11 that I said to Suzanne or somebody else said to Suzanne. So,
12 again, I don't remember.

13 Q You mean Stephani, right?

14 A Yes, Stephani.

15 Q Stephani DiNunzio?

16 A I apologize.

17 Q It is pretty clear to you, though, that by the 21st,
18 Stephani DiNunzio knows that Suzanne has reached out to
19 Mike Pomponi and asked for help on the 16th of May, right?

20 MS. RIECHERT: Objection. Lack of foundation.

21 THE COURT: Will you repeat the question, please?

22 MR. OSWALD: Happy to. Thank you, Your Honor.

23 BY MR. OSWALD:

24 Q It is pretty clear to you that as of the 21st of May,
25 Stephani DiNunzio knows that Suzanne has sent an email to

D. Ceaser - ReD

1 Mike Pomponi on the 16th, the one that he sent on to you
2 raising compliance concerns, right?

3 MS. RIECHERT: Objection. Lack of foundation.

4 THE COURT: Overruled. You may answer.

5 THE WITNESS: Okay. So based on this email that was
6 sent to Matt, it seems like Stephani was aware.

7 BY MR. OSWALD:

8 Q Andrew Maratas, Stephani DiNunzio's youngest report, was
9 on a PIP because he was on a performance track, right?

10 A Okay. Can you repeat that, because there are two
11 different things that you are saying. I want to make sure that
12 I'm answering correctly.

13 Q Andrew Maratas, who was Stephani DiNunzio's youngest
14 report, was on a performance improvement plan because he was on
15 a performance track, right?

16 A So based on what you brought up earlier, I did not see
17 that Andrew Maratas was on a PIP, and I think I mentioned that
18 earlier in my testimony. So my testimony to that would be a
19 no, I believe.

20 Q Okay. Your counsel has admitted that he was on a PIP. Do
21 you have any reason to disclaim that?

22 A Based on the information that you brought up, that's a
23 coaching plan. So, again, I can only go by the documents that
24 you showed me, because I was not directly involved during that
25 time frame. So I can only go by what I'm seeing.

D. Ceaser - ReD

1 Q I understand. But you knew that Stephani DiNunzio placed
2 him on a coaching plan?

3 A Right. An informal coaching plan.

4 Q And she had placed him on an informal coaching plan
5 because he was on a performance track, right?

6 A Again, that information would not have come to me until
7 after Karen had retired, if she connected me to that case. So
8 I don't know whether or not Andrew Maratas was one of those
9 active cases, because if it happened prior to Suzanne, I don't
10 know whether or not I would have been attached to that or not.
11 Can you bring up that document again to see whether or not I'm
12 on that?

13 Q My question is pretty easy here. The reason he was on a
14 coaching plan was because he was on performance track. He
15 wasn't on a misconduct track, right?

16 MS. RIECHERT: Lacks foundation.

17 THE COURT: Overruled. Answer the question.

18 THE WITNESS: All right. So that's a yes or no.

19 Correct? So, yes, people are put on informal coaching if they
20 have performance issues.

21 BY MR. OSWALD:

22 Q And AstraZeneca put Suzanne on a disciplinary track,
23 correct?

24 A Correct. Yes.

25 Q Andrew Maratas was 39 and had not raised any complaints to

D. Ceaser - ReD

1 compliance or to human resources, right?

2 A I wouldn't know that answer.

3 Q You weren't aware of any, were you?

4 A I wasn't aware of Andrew Maratas raising any complaints,
5 no.

6 Q And Suzanne was 51 and made her first complaint to
7 compliance in her 19th year, right?

8 A Again, I wasn't a part of that, so you are kind of asking
9 me questions when I didn't have any involvement in terms of
10 when that first complaint may have been made to compliance. I
11 do know that a complaint was made to compliance, but I don't
12 know whether she was 51 at the time that she made that
13 complaint. So I don't know whether or not I'm answering that
14 question correctly, because, again, I didn't take over until
15 May. I think a lot of this that you're asking me precedes me
16 from when I started to support the client group. So I just
17 want to be clear.

18 Q And you never asked, right?

19 A No.

20 MR. OSWALD: Nothing further, Your Honor.

21 THE COURT: Thank you.

22 MS. RIECHERT: One further question on
23 recross-examination.

24

25

D. Ceaser - ReX

1 RECROSS-EXAMINATION

2 BY MS. RIECHERT:

3 Q One further question: The witness was asked to elaborate
4 on an answer as to whether she had asked Ms. Ivie whether she
5 was working and what she was doing. Do you want an opportunity
6 to elaborate on that?

7 A Yes. So I had several conversations with Suzanne. And in
8 the conversations that I had with Suzanne, she had explained to
9 me, you know, that there was some difficulty -- she had a
10 medical condition. I'm not going to disclose what that medical
11 condition was. But she had disclosed a medical condition to
12 me, and she indicated to me that she was having some struggles
13 with working. So we had a number of conversations as it
14 related to that. So there would be no reason for me to ask
15 that question, because there was some information that was
16 volunteered that she had given to me as we were having
17 discussions around her allegations and around why she wasn't
18 meeting with me and around why there had been several
19 cancellations of meetings that I had put on the books for her.

20 MS. RIECHERT: No further questions.

21 MR. OSWALD: Your Honor, I have one follow-up.

22 THE COURT: Okay.

23

24

25

D. Ceaser - Further

1 FURTHER EXAMINATION

2 BY MR. OSWALD:

3 Q Ms. Ceaser, you are aware of the Americans with
4 Disabilities Act, right?

5 A Oh, absolutely.

6 Q It's part of your training?

7 A Yes.

8 Q You know that if an employee indicates that they have an
9 impairment that affects a major life activity, that that
10 potentially triggers, in human resources, the requirement to
11 accommodate that employee in the workplace, right?

12 A Yes. And she was accommodated for that.

13 Q I understand. So you're saying that she came to you, and
14 she said that she was having some struggles because of this
15 condition. Did you offer her an accommodation?

16 A She was receiving an accommodation.

17 Q Did you offer any other accommodation?

18 A Again, she was already receiving an accommodation.

19 Q Did you engage in the interactive process?

20 A That wouldn't be my role.

21 Q Whose role was that?

22 A We have a complete separate team that handles leaves of
23 absences. So that wouldn't be my role to engage in an
24 interactive conversation with her around that. Again, from my
25 understanding, with what she disclosed, she indicated that she

D. Ceaser - Further

1 was on intermittent leave.

2 Q Did you refer her to that group for further discussion?

3 A Again, she was the one who came to me indicating that she
4 was on an intermittent leave. From my understanding, she knew
5 who to contact, because she had been out on a previous leave of
6 absence. So she understood the mechanisms and knew who she
7 needed to reach out to, if there were any additional
8 accommodations that was needed.

9 Q And you didn't suggest that she go back potentially if she
10 is having struggles back at work as a result to talk to the
11 accommodation coordinator?

12 A So when we were having these conversations, when she had
13 canceled or forgot to get on the call with me, that would be
14 the reason that she would give me, is that -- you know, that
15 she was having a medical issue that day. And, again, that fit
16 in line with what the accommodation that was being provided to
17 her.

18 Q Let's just be clear. The reason she missed the call is
19 because she had a severe migraine, right, and she told you
20 that, right?

21 A She did. Yes. Again, I don't want to put other people's
22 medical information out there. You did. But, yes, that's what
23 she told me. Yes.

24 MR. OSWALD: Nothing further, Your Honor.

25 THE COURT: Thank you.

K. Belknap - D

1 MS. RIECHERT: Nothing further.

2 THE COURT: May this witness be excused?

3 MR. OSWALD: Yes.

4 THE COURT: Thank you, ma'am. Collect your stuff and
5 head out.

6 THE WITNESS: Thank you.

7 THE COURT: We need one moment.

8 MR. OSWALD: Yes.

9 THE COURT: Please step forward and be sworn.

10 THE CLERK: Go ahead and step up into the box,
11 please.

12 (The witness was duly sworn.)

13 THE CLERK: Please be seated. You can take your mask
14 off if you would like. State your full name and spell your
15 last name for the record.

16 THE WITNESS: Karen Belknap. B-E-L-K-N-A-P.

17 THE CLERK: Thank you.

18 MR. OSWALD: May I approach, Your Honor?

19 THE COURT: Please.

20 DIRECT EXAMINATION

21 BY MR. OSWALD:

22 Q Ms. Belknap, hello.

23 A Hello.

24 Q I am Scott Oswald, and I represent Suzanne Ivie.

25 A Okay.

K. Belknap - D

1 Q I would like to ask you a little bit about your
2 background, if that's okay.

3 A Yes.

4 Q First, we have been using our chart during our time in the
5 courtroom. I want to confirm this is you here, Karen Belknap,
6 senior employment practices partner, right?

7 A That's correct.

8 Q During your career at AstraZeneca, you were a senior
9 employment practices partner for much of that time, right?

10 A For all of that time.

11 Q Thank you. And AstraZeneca hired you in 2006, right?

12 A I believe that's correct, yes.

13 Q As a senior employment practices partner?

14 A Yes.

15 Q Now, in 1992, the Society of Human Resources Management
16 certification -- the Society of Human Resources Management
17 organization certified you as a human resources professional,
18 right?

19 A I believe that was the year. It was the early '90s.

20 Q And the Society of Human Resources Management is a well
21 recognized organization of human resource professionals in the
22 United States, right?

23 A I would agree with that, yes.

24 Q Now, you allowed your SHRM certification,
25 CP certification, to lapse when you joined AstraZeneca, right?

K. Belknap - D

1 A It was about the time that I was joining AstraZeneca. I'm
2 not sure if it had lapsed prior to that. But it was, I think,
3 in the early 2000s.

4 Q And you never reapplied and obtained a certification from
5 the Society of Human Resources Management?

6 A I did not after that, no.

7 Q And you worked in AstraZeneca's human resources for 13
8 years thereafter, right?

9 A That's correct.

10 Q You retired on May 3rd of 2019?

11 A That's correct.

12 Q Now, when you retired, Dawn Ceaser took over your job
13 duties, right?

14 A On an interim basis, that's correct.

15 Q One of your duties was to investigate AstraZeneca employee
16 complaints of discrimination and retaliation, right?

17 A Yes.

18 Q I'll ask you about Rule No. 3 on this board here. Do you
19 agree that AstraZeneca must protect its employees from
20 retaliation when they report in good faith concerns about the
21 company marketing its drugs for unapproved uses, right?

22 A Yes.

23 Q Now, when you investigate a complaint of discrimination,
24 you always interview the person who made the complaint, right?

25 A Yes. As long as we know who the person is making the

K. Belknap - D

1 complaint, yes.

2 Q And you reviewed any written materials the employee
3 provided to you, right?

4 A Yes.

5 Q It was your practice to investigate all complaints, right?

6 A All employee relations complaints, yes.

7 Q And you would investigate them thoroughly?

8 A I believe so.

9 Q And in a timely manner, if there was enough information
10 for you to -- that you had enough information about the
11 complaint, right?

12 A Yes.

13 Q And that was part of your responsibility to the company,
14 right?

15 A That's correct.

16 Q And your responsibility to the employee?

17 A That's correct.

18 Q Your general protocol in investigating complaints of
19 discrimination and retaliation included interviewing the person
20 who lodged the allegations, right?

21 A Yes.

22 Q To ask follow-up questions?

23 A If necessary, yes.

24 Q And to get detailed information about their allegations,
25 right?

K. Belknap - D

1 A That's right.

2 Q From there, you would interview witnesses, right?

3 A If there were witnesses, yes.

4 Q To substantiate the allegations, right?

5 A Or unsubstantiated, yes.

6 Q Finally, your last step would be to give the accused an
7 opportunity to respond, right?

8 A I'm sorry. You said the final step?

9 Q It would be to give the accused an OTR, or an opportunity
10 to respond?

11 A I won't say that's the final step of the investigation.
12 That is one step of the investigation.

13 Q Well, it is an important step in the investigation?

14 A Oh, absolutely. But I'm saying that I don't believe
15 that's the final step.

16 Q It could be the final step, right?

17 A The final step would be making a determination on whether
18 it was substantiated or unsubstantiated, in my opinion.

19 Q I understand. What I'm really interested in is not the
20 coalescing of all of the information after you've completed the
21 investigation. I'm just talking about the investigation
22 itself, where you are interrupting folks. I mean, you
23 interview the accused, right?

24 A Yes.

25 Q And that's important because you want to hear the

K. Belknap - D

1 accused's side of the story, right?

2 A That's right.

3 Q Now, during your time at AstraZeneca, you were responsible
4 for investigating complaints in AstraZeneca's sales department,
5 right?

6 A Field sales, yes. Not all of field sales; certain
7 therapeutic areas of field sales.

8 Q Consisting of 3,000 employees, right?

9 A That is what I was assigned to; the client group I was
10 assigned to.

11 Q On average, you were assigned 150 discrimination and
12 retaliation cases per year, right?

13 A Not simply retaliation and discrimination. It was on
14 average 150 cases per year.

15 Q You had 150 cases a year?

16 A On average, yes. But all of those were not discrimination
17 and retaliation.

18 Q These are employee complaints, right? 150?

19 A Not all of them were employee complaints, no.

20 Q So you had 150 matters or cases a year that you were
21 investigating, right?

22 A That's correct.

23 Q Now, you take handwritten notes on every investigation,
24 right?

25 A Pretty much every investigation, yes.

K. Belknap - D

1 Q And then you forward those notes to headquarters for
2 document storage, right?

3 A That's right.

4 Q Let's talk about the other hat that you wear as well. You
5 also assist managers with employees who are having employment
6 issues, right?

7 A Having employment issues? Can you elaborate on what you
8 mean by that?

9 Q So if a manager is having an issue with one of her
10 employees, right, you assist managers, right?

11 A If it is related to their performance or some sort of
12 misconduct, yes, I would assist them.

13 Q Okay. And at AstraZeneca there are two different
14 tracks -- a discipline track for a violation of company policy
15 or work rules, right?

16 A Yes.

17 Q And a performance track?

18 A Correct.

19 Q Let's talk about the performance management.

20 A Okay.

21 Q At AstraZeneca you don't consider performance management
22 discipline, right?

23 A That's correct.

24 Q Now, you, during your time, provide advice and counsel on
25 whether or not formal steps should be taken to try to improve

K. Belknap - D

1 an employee's performance, right?

2 A That's right.

3 Q On the performance track, the first step involves the
4 manager providing additional coaching to the employee, right?

5 A That's generally the first step, yes, coaching.

6 Q On the performance track, if coaching has not corrected
7 the underperformance, you move to a performance improvement
8 plan, right?

9 A That would be the next step.

10 Q Or a PIP?

11 A Correct.

12 Q Now, your role in human resources is to advise the manager
13 on the policy and next steps for performance management, right?

14 A I'm sorry. Could you repeat that?

15 Q Your role in human resources is, in part, to advise the
16 manager on the policy and next steps for performance
17 management, right?

18 A Yes.

19 Q The decision on performance-related matters is up to the
20 manager on how the manager wants to proceed, right?

21 A If the manager feels that an employee is not showing
22 improvement, they can make the decision on whether or not to
23 implement the performance improvement plan.

24 Q And that decision is up to the manager, right?

25 A The ultimate decision would be up to the manager, yes.

K. Belknap - D

1 Q Now, by 2019 -- let's say by January 1st, 2019, you had
2 guided Stephani DiNunzio down the performance management route
3 with one of her district sales managers, right?

4 A Could you give me the name of that person?

5 Q Well, you're aware you had assisted Stephani DiNunzio down
6 the performance management track on at least one of her
7 employees, right?

8 A One of her employees was put on a plan, correct.

9 Q And he was a district sales manager, right?

10 A That's correct.

11 Q The same position that Suzanne Ivie was in, right?

12 A Basically the same position; different titles. Suzanne
13 was an executive DSM. He was a DSM but not an executive DSM.

14 Q Now, you guided Stephani DiNunzio down the performance
15 management route with Andrew Maratas. That was his name,
16 right?

17 A That's right.

18 Q Now, you reviewed the performance improvement plan that
19 Stephani DiNunzio prepared for Andrew Maratas?

20 A Yes.

21 Q Before Stephani issued the PIP to Andrew Maratas, right?

22 A Yes.

23 Q Stephani DiNunzio issued Andrew Maratas the PIP because
24 the quality of his coaching was not where it needed to be,
25 right?

K. Belknap - D

1 A That's my recollection.

2 Q Let's talk about the discipline track.

3 A Okay.

4 Q Now, AstraZeneca's discipline track is different, right?

5 A Different how?

6 Q Than the performance track?

7 A Yes.

8 Q You, as the HR employee relations representative,
9 determine what corrective measures are appropriate, right?

10 A We make a recommendation, yes.

11 Q And you do this according to AstraZeneca's discipline
12 policy; is that right?

13 A That's right.

14 Q You might give a warning or a termination, right?

15 A Our policy allows us to move to the appropriate step that
16 we feel meets the violation or infraction.

17 Q And those include that warning or termination, right?

18 A That's correct.

19 Q Now, if there is potential misconduct, the employee
20 practices partner serves as the lead investigator, right?

21 A For human resource policy violations, that's correct.

22 Q For conduct violations, your role is to conduct an
23 investigation, right?

24 A Yes.

25 Q And then to determine the appropriate steps thereafter,

K. Belknap - D

1 right?

2 A To make a recommendation, yes.

3 Q Now, overall, you received two complaints from
4 Suzanne Ivie about Stephani DiNunzio, right?

5 A They came through anonymous, but then we determined the
6 day after we received them that Suzanne was the reporter,
7 that's correct.

8 Q Okay. This is the timeline. Can you see the timeline
9 from there?

10 A August 18 through January 2019. I'm not going to be able
11 to see the rest of it.

12 Q We are here on December 19th. What I want to ask, first,
13 was Suzanne Ivie's complaint on December 19th, 2018, right?

14 A I believe that's when it came into the company. I believe
15 it was actually assigned to me on the 20th.

16 Q Of December?

17 A Yes.

18 Q I understand. Now, you interviewed Suzanne Ivie on
19 January 15, 2019, right?

20 A That sounds correct.

21 Q Here, right?

22 A If that's what that says, yes.

23 Q And you were with Mr. Pomponi when you interviewed Suzanne
24 Ivie, right?

25 A I was in my home office in Dallas, and Mike was in his

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1 office in Delaware. We were on the phone together.

2 Q Interviewing Suzanne Ivie?

3 A Yes.

4 Q Now, the same day, on January 15th, DiNunzio calls you,
5 right?

6 A Yes.

7 Q To say that she had some concerns about Suzanne Ivie's
8 coaching days and work activity, right?

9 A That's right.

10 Q Then DiNunzio took the entire day to prepare an email to
11 you, right?

12 A I believe she mentioned that, that she had taken the
13 entire day to do it, yes.

14 Q DiNunzio alleged that Suzanne's field coaching reports
15 weren't meeting expectations, right?

16 A The number of field coaching reports were not meeting
17 expectation, correct.

18 Q Now, when Stephani DiNunzio called you that day, you had
19 already interviewed Suzanne Ivie about Suzanne's complaints
20 about off-label market?

21 A That's my recollection, yes.

22 Q Six days before that, on January 9th, you had notified
23 Stephani DiNunzio boss, Mike Hartman, of Suzanne's off-label
24 marketing complaint, right?

25 A I'm not certain I went into the specifics with

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1 Mike Hartman. I did contact him to let him know a complaint
2 had been received against Stephani.

3 Q Well, you reviewed the allegations in the report with
4 Mike Hartman?

5 A I don't know if I went over all of the allegations with
6 him. I just don't -- I know I contacted him to say that we
7 received a report that we were going to have to proceed with an
8 investigation.

9 Q And you reviewed the allegations contained in the report
10 with Mike Hartman, right?

11 A I don't recall if I did or not.

12 Q Let's take a look at Plaintiff's Exhibit No. 82 and see if
13 that refreshes your recollection, page 4. It's going to be on
14 your screen here in just a moment. Let's go to the top very
15 quickly here.

16 Now, this is a document -- it is an official
17 AstraZeneca document, right?

18 A Yes. From the EthicsPoint system that we use.

19 Q Let's go down to page 4. By the way, you are the creator
20 of this document, right?

21 A That's correct.

22 Q And you had mentioned -- I apologize -- go back to that
23 view.

24 By the way, you had mentioned before that the
25 20th was the day it was assigned to you, the 20th of December?

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1 A That's correct.

2 Q Now, we are going to page 4. Let's look at first entry
3 here under "Results of Previous Action." 1-9-19, "Reviewed
4 allegations contained in the report with EBD, Mike Hartman."

5 Did I read that correctly?

6 A Okay. You did. I don't know -- I don't recall if I went
7 through specifically what the allegations were. It may have
8 been that I said there were some HR allegations, and there was
9 some compliance allegations, and that both HR and compliance
10 will be conducting an investigation.

11 Q And that was on January 9th?

12 A The 9th, correct.

13 Q Okay. This is six days before you interview Suzanne Ivie,
14 right?

15 A Yes.

16 Q And six days before Stephani DiNunzio calls you about her
17 concerns about Suzanne Ivie's coaching report?

18 A That's right.

19 Q By the way, Mike Hartman is Stephani DiNunzio -- at the
20 time he was her direct supervisor, right?

21 A That's right.

22 Q Now, Suzanne Ivie complained a second time to
23 AstraZeneca's compliance department, right?

24 A The first one, I believe, came in anonymously in early
25 December. Then the second one again came in anonymously on

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1 December 19th, and then I got it on the 20th.

2 Q I get that. She complained again on the February 5th,
3 right, of 2019?

4 A She did have some other concerns. I thought that was in
5 April.

6 Q It's okay. Do me a favor. Do you see the deposition on
7 the left? Let's see if this helps. Take a look at 145, line
8 16. Just read that to yourself -- 16, 17, 18, and 19.

9 Does that help refresh your recollection?

10 A Well, I'm not that fast of a reader. So what line,
11 please?

12 Q 14, 15, and 16 through 19.

13 A Okay. So it says it was opened on 2-5.

14 Q February 5th, 2019, right?

15 A I said, "Okay."

16 You said, "That date isn't familiar to you?"

17 And I said, "I don't know that I have seen this one."

18 Q You can close that up. Let's look at Exhibit No. 81.
19 This says, "2-5-2019," right, "Allegation, CBD and DSM are
20 encouraging off-label promotion, received; reported date,
21 2-5-19."

22 A I see that.

23 Q Keep scrolling down. Keep going. Okay. Stop there.

24 It says, "Case assigned to Karen Belknap, primary,"
25 right? Did I read that correctly?

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1 A That's correct.

2 Q Now, what Suzanne is saying is that Stephani DiNunzio was
3 asking her to sell AstraZeneca drugs off label, right?

4 A I believe that was in the report. I also point out that
5 Mike Pomponi was listed as primary, and her complaints were
6 compliance related, not HR. But any time a complaint comes in,
7 if it is within the therapeutic area that I support, I'm going
8 to be listed as the primary, in the event there needs to be
9 some disciplinary action taken.

10 Q And you get access to this. It comes to you, right?

11 A Yes. I'm notified when the case is assigned to me.

12 Q So if it is assigned to you on the 5th, you take that
13 responsibility very seriously, and you look at it right away,
14 right?

15 A Generally right away, yes.

16 Q Now, what Suzanne was complaining about was off-label
17 marketing, right?

18 A I believe that's what was in the report, yes.

19 Q Specifically that Stephani DiNunzio was asking her and
20 other sales representatives to unethically expand AstraZeneca's
21 patient base, right?

22 A I believe that was in the report.

23 Q In order to increase AstraZeneca's market share?

24 A Could we go back on this a moment, because I'm not sure if
25 it came through anonymously. Can you scroll down?

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1 "Reporter: Anonymous." Yes.

2 Q You didn't know this was from Suzanne Ivie?

3 A I didn't know. It came through anonymously.

4 Q So this could be a second report from a different employee
5 then, correct?

6 A That's possible.

7 Q You take that seriously?

8 A That's correct.

9 Q You have got potentially two employees coming forward and
10 talking about off-label marketing that Stephani DiNunzio is
11 engaging in, right?

12 A That's a possibility, yes.

13 Q And what this employee here is saying is that DiNunzio is
14 asking her to "unethically expand AstraZeneca's patient base in
15 order to increase AstraZeneca's market share," right?

16 A That's what it says, yes.

17 Q "Using off-label marketing," right?

18 A Yes. That's what it says.

19 Q What this employee is alleging is that she and the other
20 sales reps were supposed to "insinuate (wink, wink) that
21 AstraZeneca respiratory products have a COPD, anxiety, and
22 depression indication," right?

23 A That's what it says, yes.

24 Q This is on the -- just to refresh, go to the top, the 5th
25 of February.

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1 A Correct.

2 Q Okay. Thank you, Peter.

3 Now, two days later you create a case alleging that
4 Suzanne Ivie is violating AstraZeneca's time and attendance
5 policy, right?

6 A If that was the day. I don't remember off the top of my
7 head if it was the date or not. But I opened a case for that,
8 yes.

9 Q Let's look at Plaintiff's Exhibit No. 91.

10 Okay. Does this help refresh your recollection as to
11 the date that you opened a case alleging that Suzanne Ivie was
12 violating AstraZeneca's time and attendance policy?

13 A It looks like a case was opened on 2-22, if you go all the
14 way to the top. The report was received on 2-7, it says.

15 Q And you opened this case, correct?

16 A Yes.

17 Q Now, going back to Suzanne Ivie -- by the way, this report
18 that you received, would that have been from Stephani DiNunzio?

19 A This report of Suzanne?

20 Q The time and attendance violation.

21 A Yes, that's correct. From January 15th.

22 Q Okay. So you formally opened a case. You receive an
23 allegation on the 7th of February, right?

24 A The allegation was January 15th. So I'm not sure why it
25 says 2-7.

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1 Q 2-7 is two days after 2-5?

2 A Yes. But the allegation from Stephani about time and
3 attendance was on January 15th.

4 Q And this says that the report you received, which
5 ultimately led you to open a case of time and attendance
6 misconduct, was received from Stephani DiNunzio on
7 February 7th, 2019, right?

8 A I know that it is possibly a mistake. I know the first
9 time that Stephani contacted me was 1-15. There was a delay in
10 when I was able to get back with her regarding starting an
11 exception. So it is possible that it was 2-7 before I was able
12 to get back with her. So that may be why I used the 2-7 date.

13 Q I get it. 2-7 is two days after 2-5?

14 A Five, six, seven. That's right.

15 Q Now, I want to go back to Suzanne Ivie's allegations for a
16 moment.

17 A Okay.

18 Q You and Mike Pomponi give Suzanne -- you and Mike Pomponi
19 gave DiNunzio her opportunity to respond to Suzanne Ivie's
20 allegations, right?

21 A On 1-15.

22 Q So what I'm interested in is the OTR --

23 A Okay.

24 Q -- for Stephani DiNunzio about where she is responding to
25 Suzanne Ivie's allegations that Suzanne Ivie had made on the

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1 19th, was assigned to you on the 20th, and you interviewed
2 Suzanne Ivie on the 15th?

3 A That's right.

4 Q Okay. So going back to Suzanne Ivie's allegations for a
5 moment, you and Mike Pomponi gave DiNunzio an OTR -- an
6 opportunity to respond -- to Suzanne Ivie's allegations on
7 March 1st, right?

8 A That sounds right.

9 Q You issue a written warning to Suzanne Ivie effective the
10 same day, right?

11 A Is that the actual date on the warning letter? Because
12 that's a different date than when we advised her she was being
13 placed on a written warning.

14 Q Let's look at Plaintiff's Exhibit No. 18. This is your
15 written warning to Suzanne Ivie, right?

16 A That's correct.

17 Q And the effective date is March 1st, 2019, correct?

18 A That is correct. However, if you read the description, it
19 says, "On February 18th, a call was held with you that was for
20 OTR" -- if you will scroll down -- "and as a result you are
21 being placed on the first written warning."

22 When we had the discussion with Suzanne to tell her
23 she was being placed on the first written warning was held
24 prior to this.

25 Q I understand. My point is simply you issued a written

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1 warning with an effective date, it says here, of March 1st.

2 Did I read that correctly?

3 A That's correct. But there is more to that than simply
4 this effective date.

5 Q We are going to get there, I promise you.

6 A Okay.

7 Q All right. Now, I want to now talk about the OTR for a
8 moment on March 1st. At Stephani DiNunzio's March 1st
9 opportunity to respond, no third party attends, right?

10 A That's right. It was Stephani, myself, and Mike.

11 Q Other than the investigators, you and Mr. Pomponi, and
12 DiNunzio herself, right?

13 A It was a phone call, yes.

14 Q At Suzanne Ivie's OTR, there was a third party present,
15 right?

16 A Regarding her work activity, there was --

17 Q At Suzanne's OTR --

18 A That's right.

19 Q -- there was a third party present, right?

20 A Correct.

21 Q That third party was Stephani DiNunzio, right?

22 A That's correct.

23 Q Her accuser? Her accuser?

24 A Stephani is the one that came with concerns about the work
25 activity --

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1 Q Is she not accusing Suzanne of misconduct?

2 A She had accused Suzanne of misconduct. Any time an
3 employee -- a manager accuses an employee of misconduct, they
4 are in on the investigation.

5 Q In fact, DiNunzio was in a lot more than "in on the
6 investigation." She been was the one asking the questions,
7 right?

8 A That's typical.

9 Q It happened here, right?

10 A It happened here, and it is typical, yes.

11 Q Now, you relied on what Stephani DiNunzio represented to
12 you in disciplining Suzanne on March 1st, 2019, right?

13 A Not solely on what she presented to me, no.

14 Q You relied on what she had given you, correct?

15 A Along with other evidence, that's correct.

16 Q You decided to discipline Suzanne on February 25th, right?

17 A If that's the date in the report. I can't tell you,
18 sitting here today, if that's the date.

19 Q Well, the warning letter was discussed on February 25th,
20 right?

21 A I know we discussed the warning letter later in February.
22 If it says the 25th, I'm sure that's correct.

23 Q Now, the reason that you have already decided to
24 discipline Suzanne on February 25th was you had already drawn
25 or reached the end of the investigation into Suzanne's

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1 complaints, right?

2 A I'm sorry? Say that again.

3 Q The reason that you had already decided to discipline
4 Suzanne on February 25th was that you had already drawn or
5 reached the end of the investigation into Suzanne's complaints?

6 A No. Because we had reached a conclusion into Stephani's
7 concern about Suzanne not working as expected.

8 Q Well, you had already drawn or reached the end of the
9 investigation, right, the discrimination part, and were simply
10 waiting on compliance to finish their piece, right?

11 A That sounds right, but that was not why I concluded the
12 other investigation.

13 Q All right. But the point is you had concluded the
14 discrimination portion on the 25th of February, right?

15 A That sounds about right.

16 Q Even though you didn't confront DiNunzio with Suzanne's
17 allegations for another five days, on March 1st, right?

18 A That's right.

19 Q And even though you didn't formally conclude your
20 investigation into Suzanne's complaint until the end of March,
21 right?

22 A Formally, yes, that's right.

23 Q Now, we already reviewed this, but you disciplined
24 Suzanne Ivie effective March 1st, right?

25 A That's when we sent her the warning, yes.

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1 Q Because the expectations regarding field virtual coaching
2 days were widely communicated to managers in June of 2017,
3 right?

4 A I believe that's correct.

5 Q And again in April of 2018, right?

6 A I believe that's correct.

7 Q During a manager's call conducted by DiNunzio, right?

8 A Along with the call, there was a communication that came
9 out from headquarters as well; an email perhaps.

10 Q I understand. The point is, though, you concluded -- you
11 factored into this that Stephani DiNunzio had informed her
12 managers in June 2017 and April of 2018 about this policy,
13 right?

14 A I concluded that Suzanne should have known about the
15 policy, yes.

16 Q Now, you expect an accuser to give you all relevant
17 documents relating to the accuser's allegations about another
18 employee's conduct, right?

19 A Yes.

20 Q Let's look at what Stephani DiNunzio gave you to support
21 her charge against Suzanne.

22 Let's look at Plaintiff's Exhibit No. 5. This is the
23 email that we talked about before that Stephani DiNunzio sent
24 you, right, after you had interviewed Suzanne about Suzanne's
25 off-labeling marketing concerns, right?

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1 A That's right.

2 Q In her January 15th email, DiNunzio alleged that Suzanne
3 is using field coaching reports to document brief distance
4 coaching discussions and follow-up conversations, right?

5 A That's correct.

6 Q DiNunzio is complaining about several instances where more
7 than one field coaching report was completed in the same day,
8 right?

9 A That's what it says, yes.

10 Q Leading to possible falsification of Suzanne's coaching
11 time, right?

12 A That was a concern, yes.

13 Q DiNunzio points you to two instances on April 4, 2018, and
14 June 15th, 2018, where she says she asked Suzanne to refrain
15 from this practice, right?

16 A Yes.

17 Q Let's look at what Ms. DiNunzio did not give you. Let's
18 look at Plaintiff's Exhibit 177. Now, this is an email from
19 Stephani DiNunzio to Mark Hartman on July 26th, 2018?

20 A To Mike Hartman.

21 Q Excuse me. Did I say something differently?

22 A I thought you said Mark.

23 Q I thought I said Mike. Thank you for correcting me. This
24 is from DiNunzio to Mike Hartman on July 26th, 2018, right?

25 A Yes.

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1 Q And July 26th, 2018 is after April 4th, 2018, and
2 June 15th, 2018, right?

3 A That's right.

4 Q And on July 26th, 2018, Stephani says to her boss, Mike
5 Hartman, that "Suzanne is coaching them through a blend of live
6 field rides and virtual coaching," right?

7 A That's what she says.

8 Q "Sometimes she" -- Suzanne -- "will have a couple of
9 long-distance coaching discussions in one day," right?

10 A That's what it says.

11 Q "And will fill out coaching forms for both," right?

12 A "She will have a couple of long-distance coaching
13 discussions in one day and will fill out a coaching report for
14 both."

15 Q Right.

16 A So a couple of people -- yes, that's what it says.

17 Q Okay. "Which I have asked her to do," right?

18 A Yes.

19 Q Okay. Let's look at another email that she didn't give to
20 you. Now, you accepted Stephani's position that she never
21 communicated that there were any budget constraints restricting
22 travel, right?

23 A That's what Stephani told me, and I believe I confirmed
24 that with Mike Hartman.

25 Q Let's look at your deposition again, page 111, line 1.

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1 Let me know when you are there.

2 A Uh-huh.

3 Q "QUESTION: Okay. I'm just confirming on the budget
4 constraints, you accepted Stephani's position that there
5 were -- that Stephani never communicated that there were any
6 budget constraints; is that right?

7 "ANSWER: Basically, yes. I don't know if I reviewed
8 any documents or anything regarding that. CBD should know
9 whether or not there were travel restrictions related to
10 coaching."

11 Did I read that correctly?

12 A That's correct.

13 Q Now, let's look at Plaintiff's Exhibit 145. This is an
14 email from Stephani DiNunzio to her direct reports, including
15 Suzanne Ivie. In her email Stephani writes, "Respiratory
16 inhaled is 2 million over budget."

17 A I'm sorry. Where are you?

18 Q I'm on the next page actually, right there under "Budget."

19 A Okay.

20 Q Did I read that correctly?

21 A "Respiratory inhaled is 2 million over budget - that money
22 will come out somewhere - samples, flex, et cetera."

23 Q "What we spent on travel has a direct impact on our
24 resources."

25 A Yes.

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1 Q "Be very thoughtful about how you spend money."

2 A Yes. That's not saying, "Don't go."

3 Q "This is being watched very closely."

4 A Yes.

5 Q Stephani DiNunzio didn't provide you with any emails about
6 budget constraints leading to reduced travel budget, right?

7 A I have seen this document. I don't know if she provided
8 this to me at the time or not, but this is not saying, "Don't
9 travel."

10 Q And you didn't ask, did you?

11 A I may have asked her for something. I just don't recall
12 it. That would be something that I would normally do. I was
13 updating Hartman along the way, so I'm fairly certain that I
14 would have asked him for their budget constraints.

15 Q And he didn't share --

16 A And also I would like to point out that when there are
17 budget constraints, everyone in the company is communicating to
18 everyone in the company, corporate employees included. I have
19 never known a situation where they had said, "Field sales
20 cannot travel anymore." When they say "budget constraints," it
21 means to be thoughtful about your travel and your expenses.
22 Book your airfare as far in advance as you can. This is the
23 same direction I have received as an employee. Make sure you
24 stay in motels that are not over a certain dollar amount.
25 Don't have elaborate spending on meals. But it doesn't mean

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1 that they cannot travel at all.

2 Q Now, the reason that DiNunzio doesn't share this with you
3 is because DiNunzio wanted you to take action, right?

4 MS. RIECHERT: Objection, Your Honor. Lack of
5 foundation.

6 THE COURT: Rephrase, please.

7 BY MR. OSWALD:

8 Q She wanted you to take action quickly?

9 MS. RIECHERT: Same objection.

10 THE COURT: Overruled. You can answer, please.

11 THE WITNESS: She wasn't pressuring me to take any
12 action, no.

13 BY MR. OSWALD:

14 Q Let's take a look at Plaintiff's Exhibit No. 23.4.

15 Sorry, Peter. Plaintiff's Exhibit No. 23.

16 Okay. Now, this is an email from Stephani -- scroll
17 down.

18 A That was her maiden name.

19 Q I understand. These are questions for Suzanne. This was
20 the call that you and Stephani DiNunzio had with Suzanne on the
21 18th of February, right?

22 A I believe that's right.

23 Q Let's scroll down to page 4. Keep going, please. Okay.

24 At the end of the conversation, you write, "I'd like
25 to be prepared to take action quickly."

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1 Did I read that correctly?

2 A That's what she wrote.

3 Q To not draw this out, right?

4 A I believe that's what she meant.

5 Q Now, DiNunzio even gives you her part of the first three
6 months of Suzanne's 2018 performance evaluation, right?

7 A I saw parts of the performance evaluation, right.

8 Q She doesn't give you Suzanne's part, right?

9 A I don't recall if she did or not.

10 Q Let's take a look at Plaintiff's Exhibit No. 15. Now,
11 this is the for the first ten months of the year, right? Let's
12 scroll down.

13 A I'm not certain of that.

14 Q Let's scroll down. Suzanne's part is not here, is it?

15 A I don't see anything after 2019.

16 Q Now, you weren't going to draw this out, Ms. Belknap, were
17 you?

18 A I'm sorry. I guess I don't understand your question.

19 Q You weren't -- you had every intention of acting swiftly,
20 right?

21 A No, that is not correct.

22 Q By February 25th, you were ready to give Suzanne her first
23 written warning, right?

24 A Because I had concluded the investigation, and I had
25 enough evidence that I felt warranted a first written warning.

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1 Q Her first discipline, right, that Suzanne Ivie had ever
2 received in her 19 years at AstraZeneca, right?

3 A I believe that's correct.

4 Q And DiNunzio admits to you that DiNunzio didn't talk to
5 any members of Suzanne's team other than Chris Thomsen, right?

6 A Regarding?

7 Q Regarding the allegations that she was leveling at
8 Suzanne.

9 A I'm sorry. Suzanne -- I'm sorry. Stephani had talked to,
10 I believe, the two PSSs in Idaho who said that when Suzanne did
11 come up for field rides, that they were short days.

12 Q Let's look at Plaintiff's Exhibit No. 23 again, page 4.
13 Let's scroll all the way down. "Aside from a brief
14 conversation with Chris, I haven't spoken to any members of
15 her" -- meaning Suzanne's -- "team."

16 Did I read that correctly?

17 A Yes. And I believe I advised Stephani about the reps in
18 Idaho.

19 Q Ms. Belknap, this is on the 17th, and you're meeting with
20 Suzanne Ivie on the 18th, right?

21 A Again, I don't recall the date. But if that's what it
22 says, that's correct.

23 Q Okay. Now, Chris Thomsen, the person that she had a very
24 brief conversation with, this is the man that DiNunzio chose to
25 replace Suzanne, right?

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1 A I don't know that.

2 Q You don't know that he is in Suzanne's territory that she
3 replaced?

4 A No.

5 Q Did you ask?

6 A No. I was no longer with the company.

7 Q And you are telling me to this day you don't know that
8 Stephani DiNunzio replaced Suzanne Ivie with Chris Thomsen?

9 A I do not know that.

10 Q Now, what you did know at the time you disciplined Suzanne
11 was that other employees had complained about DiNunzio's
12 treatment of Suzanne, right?

13 A One other person had complained, yes, a former employee.

14 Q Larry Hinson, right?

15 A Correct.

16 Q Larry Hinson told you that Stephani DiNunzio made Suzanne
17 take a conference call from a bathroom, right?

18 A That's right.

19 Q So let's talk about the decision to discipline Suzanne
20 here.

21 A Okay.

22 Q You say that Stephani DiNunzio had no input into the
23 decision to discipline Suzanne, right?

24 A I'm saying she did not request any particular level of
25 discipline. She felt that something needed to be done, but she

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1 did not specifically request what level of discipline that
2 would be. It was my recommendation that we move forward with
3 the first written warning.

4 Q Open your deposition for me, page 98, please.

5 THE COURT: Mr. Oswald, I'm looking at the jury. It
6 is close to 5:00. Do you think you will be able to wrap up?

7 MR. OSWALD: I won't, but I'll finish up.

8 THE COURT: How close are you?

9 MR. OSWALD: I'm pretty close.

10 THE COURT: Okay. Let's go.

11 BY MR. OSWALD:

12 Q Okay. Take a look at your deposition, page 98, line 11.
13 Let me know when you are there.

14 A I'm there.

15 Q "QUESTION: Did anyone -- so you reached the
16 conclusion that you needed to issue a first written warning; is
17 that right?

18 "ANSWER: That is correct.

19 "QUESTION: Okay. What input did Stephani DiNunzio
20 have in that -- reaching that decision?

21 "ANSWER: None."

22 Did I read that correctly?

23 A That's right.

24 Q Now, Stephani DiNunzio had no input in the 25 percent
25 reduction from Suzanne's bonus?

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1 A That's correct.

2 Q No input into excluding her from recognition programs from
3 2019?

4 A That's right. No one can alter those consequences.

5 Q No input into the decision that her performance rating for
6 2019 could be no higher than a three, right?

7 A That's right. No one can alter those consequences.

8 Q Now, what DiNunzio did have input on was Suzanne's 2018
9 performance evaluation, right?

10 A Yes.

11 Q Which only covered ten months of the year, right?

12 A I don't know that to be the case. I vaguely remember the
13 sales field had a shorter year. I don't know if it was ten
14 months.

15 Q Let's me see if I can refresh your recollection. Let's
16 look at Plaintiff's 42. It will be on your screen momentarily.
17 Sorry. If we can go back to the previous document.

18 Sorry, Peter.

19 One moment. It is PX 15. Okay. Let's look at the
20 top. "Ivie 2018 year-end review, COE, October," right, at the
21 top?

22 A Yes.

23 Q And then in the first sentence it says, "Through October"?

24 A "Through October, you're in the bottom 17 percent of the
25 nation," yes.

K. Belknap - D

1 Q So this was for the first ten months of the year?

2 A Okay.

3 Q Right?

4 A She says, "Through October," yes.

5 Q But DiNunzio never shows that the ten-months 2018
6 performance evaluation to Suzanne during Suzanne's opportunity
7 to respond, right?

8 A No.

9 Q In fact, she never shows it to Suzanne at all, right?

10 A Her performance review?

11 Q Yes.

12 A I am not involved in the performance review aspect. I
13 can't answer that. You would have to ask Stephani.

14 Q That would be a violation of AstraZeneca's code of conduct
15 not to show an employee their review, right?

16 A The review is online, so I don't know what you mean "could
17 not have shown her." They could have had a discussion over the
18 phone. The review is online. The employees can go in and
19 review the written part.

20 Q Not this one.

21 A I don't know.

22 Q Does it surprise you that the first time that Suzanne sees
23 this review is after AstraZeneca fires her?

24 A That would surprise me, but I don't know that that's what
25 happened.

K. Belknap - D

1 Q Isn't that something that you would want to know?

2 A Again, I'm not involved in the performance review part.

3 That's not my area.

4 Q Now, you uploaded DiNunzio's ten-month review without
5 Suzanne's response into the EthicsPoint system on March 28th,
6 right?

7 A I believe that's right.

8 Q As part of your investigation materials, right?

9 A That's right.

10 Q So now let's talk about the aftermath of the March 1st,
11 2019, written warning, if we could.

12 A Okay.

13 Q In March, Suzanne took AstraZeneca-approved intermittent
14 family medical leave, right?

15 A She took a full leave of absence.

16 Q She took family medical leave, right?

17 A You said "intermittent."

18 Q She took family and medical leave in March of 2019?

19 A Full-time, yes. Full-time leave, yes.

20 Q And if a DSM goes out on leave, she would not be required
21 to meet the 80/20 split, right?

22 A If they are on leave, they are not working in the field,
23 so that would be correct.

24 Q When she returned, she would be on intermittent leave,
25 right?

K. Belknap - D

1 A It was my understanding that she had made a reasonable
2 accommodation request for that.

3 Q And she was on intermittent leave?

4 A I can't confirm that, because that happened after I left.

5 Q Well, she needed family medical leave because she was
6 experiencing migraine headaches, right?

7 A She emailed that to me to advise me of that, yes.

8 Q And on April 17th, right here, on our timeline,
9 April 17th, 2019, the day after Suzanne returns from family and
10 medical leave, Stephani DiNunzio strips Suzanne from her
11 compliance role, right?

12 A I believe that occurred prior to her going on leave.

13 Q Let's look at Plaintiff's Exhibit --

14 A There were several projects that Suzanne worked on, and I
15 noticed that some of them were taken away prior to her going on
16 leave.

17 Q Let's look at Plaintiff's Exhibit No. 27. So this is an
18 email from Stephani DiNunzio to Teresa Grey, right?

19 A Yes.

20 Q It says, "Hi, Terry. I hope you're great. I am writing
21 to ask you to remove Suzanne Ivie as the compliance ambassador
22 for the Seattle region effective immediately."

23 A That's what it says.

24 Q Does that help refresh your recollection that it was the
25 17th of April?

K. Belknap - D

1 A That's when she notified Teresa Grey of that. I guess I
2 thought that was one of the projects that they had discussed
3 earlier that was possibly taking up too much of her time.

4 Q In that role, one of the things that Suzanne did was she
5 was the compliance ambassador -- the compliance monitor for her
6 team, right?

7 A Monitor? I struggle with that word. She was there to
8 keep abreast of any changes that came out of compliance. I'm
9 not certain she was there to approve anything.

10 Q Well, you're aware, are you not, that in fact
11 Stephani DiNunzio had gone to Suzanne on April 31st, 2018, the
12 year before, and asked Suzanne to do exactly that, to approve
13 some statements that would then go out to the entire team. You
14 were aware of that, weren't you?

15 A I'm not aware that she was asking to approve them herself
16 to see if there were any concerns that needed to be flagged
17 possibly with compliance, but I don't believe she was asking
18 Suzanne to approve those.

19 Q Mike Pomponi testified that he received those emails as
20 part of the compliance investigation. You saw those, right?

21 A I'm sorry?

22 Q You saw the emails from August of 2018, right?

23 A Which emails are you referring to?

24 Q Where Stephani DiNunzio is asking Suzanne to approve
25 certain statements that the field reps were going to circulate

K. Belknap - D

1 to all of the PSSs in the region?

2 A I don't recall saying the word "approved."

3 Q Something along those lines, right?

4 A Something along the lines of "look over these"; does she
5 have any concerns with these?

6 Q Now, with the compliance role stripped, she is not going
7 to play that role anymore, correct?

8 A That would be correct.

9 Q DiNunzio required Suzanne to conduct all of her field
10 coaching days in person, right?

11 A It was my recommendation that when Suzanne returned --
12 well, it was before -- it is when we placed her on the first
13 written warning -- that we advised her that she would be
14 required to -- she would not have the option of the 20 percent
15 virtual.

16 Q That she would have to conduct all of her field coaching
17 days in person?

18 A That's correct. Until she could demonstrate that she was
19 able to do that.

20 Q This change applied to Suzanne Ivie alone and nobody else,
21 right?

22 A That is correct, because we had determined that she was
23 not even meeting the 80 percent requirement in the field.
24 That's why she was placed on the first written warning.

25 Q Now, when Suzanne returned from family and medical leave,

K. Belknap - D

1 she told you that DiNunzio was retaliating against her, right?

2 A She felt -- she did contact me with some concerns that she
3 thought that DiNunzio was retaliating against her.

4 Q By requiring her to do additional training, right?

5 A That was her allegation.

6 Q And assigning another manager to her responsibilities,
7 right?

8 A That was her allegations.

9 Q Including her supervisory responsibilities over two other
10 reps, right?

11 A That was her allegation.

12 Q Now, in April, Suzanne tells you that she feared
13 retaliation from Stephani DiNunzio, right?

14 A At some point she did, yes. I believe it was April 25th.

15 Q When Suzanne contacted you, you responded that you would
16 set up a call between her and DiNunzio, right?

17 A That's right.

18 Q The retaliator?

19 A We had not established that.

20 Q The alleged retaliator?

21 A The alleged retaliator.

22 Q So that the alleged retaliator could respond, right?

23 A Not "respond" necessarily. Suzanne had sent me some areas
24 that she had concerns about and that she needed some answers
25 to. She didn't understand some things. They were

K. Belknap - D

1 business-related questions, and I certainly did not have the
2 answer to why Stephani would have "had another manager" -- in
3 her words -- "retrain her." So my advice was to go to Stephani
4 and ask why is Stephani asking this. If you have concerns, go
5 ask her.

6 Q In fact, what she was saying to you was, "Look, I'm being
7 asked to" -- "someone is being asked to retrain me who was my
8 subordinate. I trained that person."

9 What was your reaction to that?

10 A I don't know what Stephani's request was. "Retrain" did
11 not sound accurate to me. So that's why I said, "We will set
12 up a call with Stephani and let Stephani explain to you,
13 Suzanne, if you feel like you can't go to Stephani and ask for
14 clarification, I'll set up a call and facilitate a call so that
15 she can give you the clarification that you are looking for."

16 Q On May 3rd, you had a call with Suzanne where you tell her
17 that HR is there to protect AstraZeneca and not her, right?

18 A That's not entirely right, no.

19 Q That she needs to "forget the past and move on," right?

20 A I never said, "Forget the past."

21 Q You told her to move on?

22 A I told her she needed to move forward; that the
23 investigation was complete, and she needed to move forward. I
24 said that, because during the investigation one employee came
25 forward and said Suzanne was letting him know -- so one of

K. Belknap - D

1 Suzanne's subordinates -- Suzanne was talking to one of her
2 employees about her frustration with Stephani. So my advice to
3 Suzanne was, "This investigation is complete; we need to move
4 forward. If anything else happens, these are the people that
5 you need to contact." And I gave her those people's names.
6 "This is who you can contact."

7 Q You retired from AstraZeneca the very same day?

8 A I'm sorry. I gave like five months' notice. It just
9 happened to be my last day. It was not like at that moment I
10 decided to retire.

11 Q Ms. Belknap, in retrospect, is there anything, in looking
12 at what happened here, that you would do differently if given
13 the opportunity?

14 A I don't believe so.

15 MR. OSWALD: Thank you. Thank you, Your Honor.

16 THE COURT: Thank you very much.

17 Jury, thank you. You can go ahead and step down,
18 Ms. Belknap.

19 Thank you.

20 We are in recess for the evening. I'm just going to
21 remind you, as I indicated before the trial started, that you,
22 as jurors, will decide the case based solely on the evidence
23 presented in the courtroom. You must not conduct any
24 independent research about the case. You also must not
25 communicate with anyone in any way about the case. I really

1 appreciate you following those instructions.

2 Be back in the morning at 9:00 a.m.

3 Does that work for you folks?

4 Okay. 9:00 a.m. Thank you very much.

5 (Open court; jury not present:)

6 MS. RIECHERT: Your Honor, I'm concerned we are
7 behind schedule. These witnesses are taking long.

8 THE COURT: I appreciate that. I'm equally
9 concerned.

10 MS. RIECHERT: My witnesses are on Friday, and I'm
11 not going to have time to put my witnesses on.

12 THE COURT: I'm concerned about my representations to
13 the jury, so thank you. Whatever you folks can do together to
14 speed this along would very much be appreciated.

15 Thank you.

16 We will start then at 9:00 a.m. with your cross of
17 Ms. Belknap.

18 Thank you very much.

19 (Court adjourned.)

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I certify, by signing below, that the foregoing is a
correct transcript of the record of proceedings in the
above-entitled cause. A transcript without an original
signature, conformed signature, or digitally signed signature
is not certified.

9
10 /s/ Dennis W. Apodaca July 26, 2021
DENNIS W. APODACA, RDR, RMR, FCRR, CRR DATE
Official Court Reporter
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